

114TH CONGRESS  
2D SESSION

# H. R. 5992

To amend section 203(b)(5) of the Immigration and Nationality Act to implement new reforms, and to reauthorize the EB–5 Regional Center Program, in order to promote and reform foreign capital investment and job creation in communities in the United States, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 12, 2016

Mr. GOODLATTE (for himself and Mr. CONYERS) introduced the following bill;  
which was referred to the Committee on the Judiciary

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## A BILL

To amend section 203(b)(5) of the Immigration and Nationality Act to implement new reforms, and to reauthorize the EB–5 Regional Center Program, in order to promote and reform foreign capital investment and job creation in communities in the United States, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4       (a) SHORT TITLE.—This Act may be cited as the  
5       “American Job Creation and Investment Promotion Re-  
6       form Act of 2016”.

1 (b) TABLE OF CONTENTS.—The table of contents for  
 2 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. New EB–5 general provisions.
- Sec. 3. Reauthorization and reform of the Regional Center Program.
- Sec. 4. Other EB–5 visa reforms.
- Sec. 5. Conditional permanent resident status for alien investors, spouses, and children.
- Sec. 6. Procedure for granting immigrant status.
- Sec. 7. Timely processing.
- Sec. 8. Transparency.
- Sec. 9. Reports.

3 **SEC. 2. NEW EB–5 GENERAL PROVISIONS.**

4 (a) IN GENERAL.—Section 203(b)(5) of the Immi-  
 5 gration and Nationality Act (8 U.S.C. 1153(b)(5)) is  
 6 amended by inserting after subparagraph (C) the fol-  
 7 lowing:

8 “(D) SOURCE OF FUNDS.—

9 “(i) IN GENERAL.—An alien investor  
 10 shall demonstrate that the capital required  
 11 under subparagraph (A) and any funds  
 12 used to pay administrative costs and fees  
 13 associated with the alien’s investment were  
 14 obtained from a lawful source and through  
 15 lawful means.

16 “(ii) REQUIRED INFORMATION.—The  
 17 Secretary of Homeland Security shall re-  
 18 quire, as applicable, that an alien inves-  
 19 tor’s petition under this paragraph con-  
 20 tain—

1 “(I) business and tax records, or  
2 similar records, including, but not lim-  
3 ited to—

4 “(aa) foreign business reg-  
5 istration records;

6 “(bb) to the extent such tax  
7 returns have been prepared, cor-  
8 porate or partnership tax returns  
9 (or tax returns of any other enti-  
10 ty in any form filed in any coun-  
11 try or subdivision of such coun-  
12 try), and personal tax returns in-  
13 cluding income, franchise, prop-  
14 erty (whether real, personal, or  
15 intangible), or any other tax re-  
16 turns of any kind, filed within 7  
17 years, with any taxing jurisdic-  
18 tion in or outside the United  
19 States by or on behalf of the  
20 alien investor; and

21 “(cc) evidence identifying  
22 any other source of capital or ad-  
23 ministrative fees;

24 “(II) evidence related to mone-  
25 tary judgments against the alien in-

1 vestor, including certified copies of  
2 any judgments, and evidence of all  
3 pending governmental civil or criminal  
4 actions, governmental administrative  
5 proceedings, and any private civil ac-  
6 tions (pending or otherwise) involving  
7 possible monetary judgments against  
8 the alien investor from any court in or  
9 outside the United States; and

10 “(III) the identity of all persons  
11 who transfer into the United States,  
12 on behalf of the alien investor—

13 “(aa) any funds that are  
14 used to meet the capital require-  
15 ment under subparagraph (A);  
16 and

17 “(bb) any funds that are  
18 used to pay administrative costs  
19 and fees associated with the  
20 alien’s investment.

21 “(iii) GIFT RESTRICTIONS.—Gifted  
22 funds may be counted toward the min-  
23 imum capital investment requirement  
24 under subparagraph (B) only if such funds  
25 were gifted to the alien investor by the

1 alien investor's spouse, parent, son, or  
2 daughter (but not children (as defined in  
3 section 101(b)(1))), sibling, or grandparent  
4 and such funds were gifted in good faith  
5 and not to circumvent any limitations im-  
6 posed on permissible sources of capital  
7 under this subparagraph. If a significant  
8 portion of the capital invested under sub-  
9 paragraph (A) was gifted to the alien in-  
10 vestor, the Secretary shall require the alien  
11 investor's petition under this paragraph to  
12 include records described in subclauses (I)  
13 and (II) of clause (ii) from the donor.

14 “(iv) LOAN RESTRICTIONS.—Capital  
15 derived from indebtedness may be counted  
16 toward the minimum capital investment re-  
17 quirement under subparagraph (B) only if  
18 such capital is—

19 “(I) secured by assets owned by  
20 the alien investor; and

21 “(II) issued by a banking or  
22 lending institution that is properly  
23 chartered or licensed under the laws  
24 of any State, territory, country, or ap-  
25 plicable jurisdiction, and that is not

1 sanctioned or restricted, which the  
2 Secretary shall determine after con-  
3 sulting with relevant commercial or  
4 government databases, such as those  
5 of the Department of the Treasury's  
6 Office of Foreign Assets Control, Of-  
7 fice of Terrorist Financing and Fi-  
8 nancial Crimes, and Financial Crimes  
9 Enforcement Network.

10 “(E) THREATS TO THE NATIONAL INTER-  
11 EST.—

12 “(i) DENIAL OR REVOCATION.—The  
13 Secretary of Homeland Security shall deny  
14 or revoke the approval of a petition, appli-  
15 cation, or benefit described in this para-  
16 graph, including the documents described  
17 in clause (ii), if the Secretary determines  
18 that the approval of such petition, applica-  
19 tion, or benefit is contrary to the national  
20 interest of the United States for reasons  
21 relating to threats to public safety or na-  
22 tional security.

23 “(ii) DOCUMENTS.—The documents  
24 described in this clause are—

1 “(I) a certification, designation,  
2 or amendment to the designation, of a  
3 regional center;

4 “(II) a petition seeking classifica-  
5 tion of an alien as an alien investor  
6 under this paragraph;

7 “(III) a petition to remove condi-  
8 tions under section 216A; or

9 “(IV) an application for approval  
10 of a business plan in a new commer-  
11 cial enterprise under subparagraph  
12 (I).

13 “(iii) DEBARMENT.—If a regional  
14 center, new commercial enterprise, or job-  
15 creating entity has its designation or par-  
16 ticipation in the program under this para-  
17 graph terminated for reasons relating to  
18 public safety or national security, any per-  
19 son associated with such regional center,  
20 new commercial enterprise, or job-creating  
21 entity, including an alien investor, shall be  
22 permanently barred from future participa-  
23 tion in the program under this paragraph  
24 if the Secretary of Homeland Security, in  
25 the Secretary’s discretion, determines, by a

1 preponderance of the evidence, that such  
2 person was a knowing participant in the  
3 conduct that led to the termination.

4 “(iv) NOTICE.—If the Secretary of  
5 Homeland Security determines that the ap-  
6 proval of a petition, application, or benefit  
7 described in this paragraph should be de-  
8 nied or revoked pursuant to clause (i), the  
9 Secretary shall—

10 “(I) notify the relevant indi-  
11 vidual, regional center, or commercial  
12 entity of such determination; and

13 “(II) deny or revoke such peti-  
14 tion, application, or benefit or termi-  
15 nate the permanent resident status of  
16 the alien (and the alien spouse and  
17 alien children of such immigrant), as  
18 provided in clause (i) as of the date of  
19 such determination.

20 “(v) JUDICIAL REVIEW.—Notwith-  
21 standing any other provision of law (statu-  
22 tory or nonstatutory), including section  
23 2241 of title 28, United States Code, or  
24 any other habeas corpus provision, and  
25 sections 1361 and 1651 of such title, no



1 court shall have jurisdiction to review a de-  
2 nial or revocation under this subparagraph.  
3 Nothing in this clause may be construed as  
4 precluding review of constitutional claims  
5 or questions of law raised upon a petition  
6 for review filed with an appropriate court  
7 of appeals in accordance with section 242.

8 “(F) FRAUD, MISREPRESENTATION, AND  
9 CRIMINAL MISUSE.—

10 “(i) DENIAL OR REVOCATION.—The  
11 Secretary of Homeland Security shall deny  
12 or revoke the approval of a petition, appli-  
13 cation, or benefit described in this para-  
14 graph, including the documents described  
15 in subparagraph (E)(ii), if the Secretary  
16 determines that such petition, application,  
17 or benefit was predicated on or involved  
18 fraud, deceit, intentional material mis-  
19 representation, or criminal misuse.

20 “(ii) DEBARMENT.—If a regional cen-  
21 ter, new commercial enterprise, or job-cre-  
22 ating entity has its designation or partici-  
23 pation in the program under subparagraph  
24 (H) terminated for reasons relating to  
25 fraud, intentional material misrepresenta-

1           tion, or criminal misuse, any person associ-  
2           ated with such regional center, new com-  
3           mercial enterprise, or job-creating entity,  
4           including an alien investor, shall be perma-  
5           nently barred from future participation in  
6           the program under subparagraph (H) if  
7           the Secretary of Homeland Security deter-  
8           mines, by a preponderance of the evidence,  
9           that such person was a knowing partici-  
10          pant in the conduct that led to the termi-  
11          nation.

12                 “(iii) NOTICE.—If the Secretary of  
13           Homeland Security determines that the ap-  
14           proval of a petition, application, or benefit  
15           described in this paragraph should be de-  
16           nied or revoked pursuant to clause (i), the  
17           Secretary shall—

18                         “(I) notify the relevant indi-  
19                         vidual, regional center, or commercial  
20                         entity of such determination; and

21                         “(II) deny or revoke such peti-  
22                         tion, application, or benefit or termi-  
23                         nate the permanent resident status of  
24                         the alien (and the alien spouse and  
25                         alien children of such immigrant) as

1 provided in clause (i) as of the date of  
2 such determination.

3 “(G) ADMINISTRATIVE APPELLATE RE-  
4 VIEW.—

5 “(i) IN GENERAL.—The Director of  
6 U.S. Citizenship and Immigration Services  
7 shall provide an opportunity for an admin-  
8 istrative appellate review by the Adminis-  
9 trative Appeals Office of U.S. Citizenship  
10 and Immigration Services of any deter-  
11 mination made under this paragraph, in-  
12 cluding—

13 “(I) an application for regional  
14 center designation or regional center  
15 amendment;

16 “(II) an application for approval  
17 of a business plan under subpara-  
18 graph (I);

19 “(III) a petition by an alien in-  
20 vestor for status as an immigrant  
21 under this paragraph;

22 “(IV) the termination or suspen-  
23 sion of any benefit accorded under  
24 this paragraph; and

1                   “(V) any sanction imposed by the  
2                   Secretary of Homeland Security pur-  
3                   suant to this paragraph.

4                   “(ii) JUDICIAL REVIEW.—Subject to  
5                   section 242(a)(2), and notwithstanding any  
6                   other provision of law (statutory or non-  
7                   statutory), including section 2241 of title  
8                   28, United States Code, or any other ha-  
9                   beas corpus provision, and sections 1361  
10                  and 1651 of such title, no court shall have  
11                  jurisdiction to review a determination  
12                  under this paragraph until the regional  
13                  center, its associated entities, or the alien  
14                  investor has exhausted all administrative  
15                  appeals.”.

16               (b) EFFECTIVE DATES.—

17               (1) IN GENERAL.—Except as provided in para-  
18               graph (2), the amendment made by subsection (a)  
19               shall be effective at any time after the date of the  
20               enactment of this Act, as determined by the Sec-  
21               retary, and shall be effective not later than 90 days  
22               after such date of enactment.

23               (2) EXCEPTIONS.—Subparagraph (D) of sec-  
24               tion 203(b)(5) of the Immigration and Nationality

1 Act (8 U.S.C. 1153(b)(5)), as inserted by subsection  
2 (a), shall not apply to a petition that—

3 (A) was filed by an alien investor under  
4 such section 203(b)(5) prior to June 1, 2015;

5 (B) was filed by an alien investor under  
6 such section 203(b)(5) during the period begin-  
7 ning on June 1, 2015, and ending on the date  
8 of the enactment of this Act if such beneficiary  
9 is investing in the same commercial enterprise  
10 concerning the same economic activity as con-  
11 tained in an exemplar filed prior to June 1,  
12 2015, or approved by the Secretary of Home-  
13 land Security at any time prior to the date of  
14 enactment of this Act, unless the Secretary de-  
15 termines that such approval or filing was based  
16 on fraud, misrepresentation in the record of  
17 proceeding, or is legally deficient; or

18 (C) is filed under section 216A of such Act  
19 (8 U.S.C. 1186b) if the underlying petition filed  
20 under section 203(b)(5) of such Act was filed  
21 prior to June 1, 2015, or approved before the  
22 date of the enactment of this Act.

1 **SEC. 3. REAUTHORIZATION AND REFORM OF THE RE-**  
2 **GIONAL CENTER PROGRAM.**

3 (a) REPEAL.—Section 610 of the Departments of  
4 Commerce, Justice, and State, the Judiciary, and Related  
5 Agencies Appropriations Act, 1993 (8 U.S.C. 1153 note)  
6 is repealed.

7 (b) AUTHORIZATION.—Section 203(b)(5) of the Im-  
8 migration and Nationality Act (8 U.S.C. 1153(b)(5)), as  
9 amended by section 2, is further amended by inserting  
10 after subparagraph (G) the following:

11 “(H) REGIONAL CENTER PROGRAM.—

12 “(i) IN GENERAL.—Visas under this  
13 paragraph shall be made available through  
14 September 30, 2021, to qualified immi-  
15 grants (and the eligible spouses and chil-  
16 dren of such immigrants) pooling their in-  
17 vestments with one or more additional  
18 qualified immigrants participating in a  
19 program implementing this paragraph that  
20 promotes economic growth, including pro-  
21 spective job creation and increased domes-  
22 tic capital investment, through regional  
23 centers operating within defined geo-  
24 graphic areas and designated by the Sec-  
25 retary of Homeland Security based upon

1 proposals for concentrating pooled invest-  
2 ment within such areas.

3 “(ii) PROCESSING.—In processing pe-  
4 titions under section 204(a)(1)(H) for clas-  
5 sification pursuant to this subparagraph,  
6 the Secretary of Homeland Security—

7 “(I) may process petitions in a  
8 manner and order established by the  
9 Secretary; and

10 “(II) shall deem such petitions to  
11 include records previously filed with  
12 the Secretary pursuant to subpara-  
13 graph (I) if the alien petitioner cer-  
14 tifies that such records are incor-  
15 porated by reference into the alien’s  
16 petition.

17 “(iii) ESTABLISHMENT OF A RE-  
18 GIONAL CENTER.—The manager of a pro-  
19 spective regional center shall file a pro-  
20 posal, as provided in clause (i), with the  
21 Secretary of Homeland Security requesting  
22 that the Secretary designate the regional  
23 center for purposes of this subparagraph.  
24 A regional center shall operate within a de-  
25 fined and limited geographic area, which

1 shall be described in the proposal and shall  
2 be consistent with the purpose of concen-  
3 trating pooled investment within such area.  
4 The proposal shall demonstrate that the  
5 pooled investment will have a significant  
6 economic impact on such area, and shall  
7 include—

8 “(I) reasonable predictions, sup-  
9 ported by economically and statis-  
10 tically valid forecasting tools, con-  
11 cerning—

12 “(aa) the amount of invest-  
13 ment that will be pooled;

14 “(bb) the kinds of new com-  
15 mercial enterprises that will re-  
16 ceive such investments;

17 “(cc) details of the jobs that  
18 will be created directly or indi-  
19 rectly as a result of such invest-  
20 ments; and

21 “(dd) other positive eco-  
22 nomic effects such investments  
23 will have; and

24 “(II) a description of the policies  
25 and procedures in place reasonably



1 designed to monitor new commercial  
2 enterprises and any affiliated job-cre-  
3 ating entity to ensure compliance  
4 with—

5 “(aa) all applicable laws,  
6 regulations, and Executive orders  
7 of the United States, including  
8 immigration laws and securities  
9 laws; and

10 “(bb) all securities laws of  
11 each State in which securities of-  
12 ferings will be conducted, invest-  
13 ment advice will be rendered, or  
14 the offerors or offerees reside.

15 “(iv) INDIRECT JOB CREATION.—The  
16 Secretary of Homeland Security shall per-  
17 mit aliens seeking admission under this  
18 subparagraph to satisfy only up to 90 per-  
19 cent of the requirement under subpara-  
20 graph (A)(ii) with jobs that are estimated  
21 to be created indirectly through investment  
22 in accordance with this subparagraph. An  
23 employee of the new commercial enterprise  
24 or job-creating entity may be considered to  
25 hold a job that has been directly created.

1 “(v) COMPLIANCE.—

2 “(I) IN GENERAL.—In deter-  
3 mining compliance with subparagraph  
4 (A)(ii), the Secretary of Homeland Se-  
5 curity shall permit aliens seeking ad-  
6 mission under this subparagraph to  
7 rely on economically and statistically  
8 valid methodologies for determining  
9 the number of jobs created by the pro-  
10 gram, including—

11 “(aa) jobs estimated to have  
12 been created directly, which may  
13 be verified using such methodolo-  
14 gies, except that the Secretary  
15 may request additional evidence  
16 to verify that the directly created  
17 jobs satisfy the requirements  
18 under subparagraph (A)(ii); and

19 “(bb) consistent with this  
20 subparagraph, jobs estimated to  
21 have been created indirectly  
22 through revenues generated from  
23 increased exports, improved re-  
24 gional productivity, job creation,  
25 and increased domestic capital

1 investment resulting from the  
2 program.

3 “(II) JOB AND INVESTMENT RE-  
4 QUIREMENTS.—

5 “(aa) RELOCATED JOBS.—

6 In determining compliance with  
7 the job creation requirement  
8 under subparagraph (A)(ii), the  
9 Secretary may include jobs esti-  
10 mated to be created under a  
11 methodology whereby jobs are at-  
12 tributable to prospective tenants  
13 occupying commercial real estate  
14 created or improved by capital in-  
15 vestments, but only if the num-  
16 ber of such jobs estimated to be  
17 created has been determined by  
18 an economically and statistically  
19 valid methodology and such jobs  
20 are not existing jobs that have  
21 been relocated.

22 “(bb) PUBLICLY AVAILABLE  
23 BONDS.—Alien investor capital  
24 may not be utilized, by a new  
25 commercial enterprise or other-

1 wise, to purchase municipal  
2 bonds or any other bonds, if such  
3 bonds are available to the general  
4 public, either as part of a pri-  
5 mary offering or from a sec-  
6 ondary market.

7 “(cc) CONSTRUCTION ACTIV-  
8 ITY JOBS.—The length of full-  
9 time construction activity jobs  
10 that last shorter than 24 months  
11 may be aggregated to satisfy the  
12 employment creation requirement  
13 under subparagraph (A)(ii) for  
14 alien investors participating in  
15 the program described in this  
16 subparagraph. A construction ac-  
17 tivity job may be considered a job  
18 that is created directly.

19 “(vi) AMENDMENTS.—The Secretary  
20 of Homeland Security shall—

21 “(I) require a regional center to  
22 give advance notice to, and obtain ap-  
23 proval from, the Secretary of signifi-  
24 cant proposed changes to its organiza-  
25 tional structure, ownership, or admin-

1           istration, including the sale of such  
2           center or other arrangements in which  
3           individuals not previously subject to  
4           the requirements under subparagraph  
5           (K) become involved with the regional  
6           center, before any such proposed  
7           changes may take effect unless exi-  
8           gent circumstances are present in  
9           which case the regional center shall  
10          provide notice to the Secretary within  
11          5 business days of such change;

12               “(II) approve the changes re-  
13          ferred to in subclause (I) only after—

14                   “(aa) notice of any such  
15                  proposed changes are made pub-  
16                  licly available through a publicly  
17                  accessible Web site of U.S. Citi-  
18                  zenship and Immigration Services  
19                  for a period of not fewer than 30  
20                  days; and

21                   “(bb) the Secretary deter-  
22                  mines that the regional center  
23                  would remain compliant with this  
24                  subparagraph and with subpara-  
25                  graph (K); and

1 “(III) notwithstanding the pend-  
2 ency of a request for approval of any  
3 amendment that has been filed pursu-  
4 ant to subclause (I), adjudicate busi-  
5 ness plans under subparagraph (I)  
6 and petitions under section  
7 204(a)(1)(H).

8 “(I) BUSINESS PLANS FOR REGIONAL CEN-  
9 TER INVESTMENTS.—

10 “(i) APPLICATION FOR APPROVAL OF  
11 AN INVESTMENT IN A NEW COMMERCIAL  
12 ENTERPRISE.—A regional center shall file  
13 an application with the Secretary of Home-  
14 land Security for each particular invest-  
15 ment offering in or through an associated  
16 new commercial enterprise before any alien  
17 files a petition for classification under this  
18 paragraph by reason of investment in that  
19 offering, which shall include—

20 “(I) a comprehensive business  
21 plan for a specific capital investment  
22 project;

23 “(II) a credible economic analysis  
24 regarding estimated job creation that

1 is based upon economically and statis-  
2 tically valid methodologies;

3 “(III) any documents filed with  
4 the Securities and Exchange Commis-  
5 sion under the Securities Act of 1933  
6 (15 U.S.C. 77a et seq.) or with the  
7 securities regulator of any State, as  
8 required by law;

9 “(IV) any investment and offer-  
10 ing documents, including subscription,  
11 investment, partnership, and oper-  
12 ating agreements, private placement  
13 memoranda, term sheets, biographies  
14 for management, officers, directors,  
15 and any individual with similar re-  
16 sponsibilities, the description of the  
17 business plan to be provided to poten-  
18 tial alien investors, and marketing  
19 materials used or drafts prepared for  
20 use in connection with the offering,  
21 which shall contain references, as ap-  
22 propriate, to any—

23 “(aa) investment risks asso-  
24 ciated with the new commercial

1 enterprise and the job-creating  
2 entity;

3 “(bb) conflicts of interest  
4 that currently exist or may arise  
5 among the regional center, new  
6 commercial enterprise, job-cre-  
7 ating entity, or the principals or  
8 attorneys of the aforementioned  
9 entities;

10 “(cc) pending material liti-  
11 gation or bankruptcy, or adverse  
12 judgments or bankruptcy orders  
13 issued during the most recent 10-  
14 year period, in the United States  
15 or abroad, affecting the regional  
16 center, the new commercial enter-  
17 prise, any affiliated job-creating  
18 entity, or any other enterprise in  
19 which any principal of the afore-  
20 mentioned entities held majority  
21 ownership at the time; and

22 “(dd)(AA) fees, ongoing in-  
23 terest, or other compensation  
24 that has been paid, or will be  
25 paid, to any person in connection



1 with the investment, including  
2 agents, finders, or broker dealers  
3 involved in the offering, and of  
4 which the regional center or new  
5 commercial enterprise has knowl-  
6 edge;

7 “(BB) a description of the  
8 services performed, or which will  
9 be performed, by such person to  
10 entitle the person to such fees,  
11 interest, or compensation; and

12 “(CC) the name and contact  
13 information of any such person;

14 “(V) a description of the policies  
15 and procedures, such as those related  
16 to internal and external due diligence,  
17 reasonably designed to cause the re-  
18 gional center, new commercial enter-  
19 prise, and any affiliated job-creating  
20 entity, their agents, employees, advi-  
21 sors, and attorneys, and any persons  
22 in active concert or participation with  
23 the regional center, new commercial  
24 enterprise, or any affiliated job-cre-  
25 ating entity to comply, as applicable,

1 with the securities laws of the United  
2 States and the laws of the applicable  
3 States in connection with the offer,  
4 purchase, or sale of their securities;

5 “(VI) a certification from the re-  
6 gional center and any issuer of securi-  
7 ties that is affiliated with the regional  
8 center that their respective agents,  
9 employees, advisors, and attorneys,  
10 and any parties associated with the  
11 regional center or the issuer of securi-  
12 ties that is affiliated with the regional  
13 center, are in compliance with the se-  
14 curities laws of the United States and  
15 the laws of the applicable States in  
16 connection with the offer, purchase, or  
17 sale of its securities, to the best of the  
18 certifier’s knowledge, after a due dili-  
19 gence investigation; and

20 “(VII) documentation demon-  
21 strating that the regional center con-  
22 sulted with a local economic develop-  
23 ment agency or municipality regard-  
24 ing the capital investment project,  
25 which shall address—

1                   “(aa) the number and type  
2                   of jobs anticipated to be created;  
3                   and

4                   “(bb) whether the project is  
5                   consistent with the agency or  
6                   municipality’s plan for economic  
7                   development in the region.

8                   “(ii) EFFECT OF APPROVAL OF A  
9                   BUSINESS PLAN FOR AN INVESTMENT IN A  
10                  REGIONAL CENTER’S NEW COMMERCIAL  
11                  ENTERPRISE.—The approval of an applica-  
12                  tion under this subparagraph shall be  
13                  binding for purposes of the adjudication of  
14                  subsequent petitions seeking classification  
15                  under this paragraph by immigrants in-  
16                  vesting in the same capital investment  
17                  project through a new commercial enter-  
18                  prise, and of petitions by the same immi-  
19                  grants filed under section 216A, except in  
20                  the case of fraud, misrepresentation, crimi-  
21                  nal misuse, a threat to public safety or na-  
22                  tional security, a material change that af-  
23                  fects the program eligibility of the ap-  
24                  proved economic model, other evidence af-  
25                  fecting program eligibility that was not dis-

1 closed by the applicant during the adju-  
2 dication process, or a material mistake of  
3 law or fact in the prior adjudication.

4 “(iii) SITE VISITS.—The Secretary  
5 shall—

6 “(I) perform site visits to re-  
7 gional centers; and

8 “(II) perform at least 1 site visit  
9 to each new commercial enterprise  
10 and job-creating entity, which—

11 “(aa) shall include a review  
12 for evidence of direct job creation  
13 in accordance with subparagraph  
14 (H)(v)(I); and

15 “(bb) may occur at any time  
16 during the period between the fil-  
17 ing of an application for approval  
18 of an investment in a new com-  
19 mercial enterprise under this sub-  
20 paragraph and the adjudication  
21 of the first petition for removal  
22 of conditions on lawful perma-  
23 nent resident status under sec-  
24 tion 216A(c) filed by an alien in-  
25 vesting in such investment.

1                   “(J) REGIONAL CENTER ANNUAL STATE-  
2                   MENTS.—

3                   “(i) IN GENERAL.—Each regional cen-  
4                   ter designated under subparagraph (H)  
5                   shall annually submit a statement to the  
6                   Director of United States Citizenship and  
7                   Immigration Services (referred to in this  
8                   subparagraph as the ‘Director’), in a man-  
9                   ner prescribed by the Secretary of Home-  
10                  land Security, which shall include—

11                  “(I) a certification stating that,  
12                  to the best of the certifier’s knowl-  
13                  edge, after a due diligence investiga-  
14                  tion, the regional center, the new com-  
15                  mercial enterprise, and any affiliated  
16                  job-creating entity, are in compliance  
17                  with clauses (i) and (ii) of subpara-  
18                  graph (K);

19                  “(II) a certification described in  
20                  subparagraph (L)(ii)(II);

21                  “(III) a certification stating that,  
22                  to the best of the certifier’s knowl-  
23                  edge, after a due diligence investiga-  
24                  tion, the regional center is in compli-  
25                  ance with subparagraph (N)(iii);

1 “(IV) a description of any pend-  
2 ing material litigation or bankruptcy  
3 proceedings, or litigation or bank-  
4 ruptcy proceedings resolved during the  
5 preceding fiscal year, involving the re-  
6 gional center, new commercial enter-  
7 prise, or any affiliated job-creating en-  
8 tity;

9 “(V) an accounting of all alien  
10 investor capital invested pursuant to  
11 subparagraph (H) in the regional cen-  
12 ter, new commercial enterprise, or  
13 job-creating entity;

14 “(VI) for each new commercial  
15 enterprise associated with the regional  
16 center—

17 “(aa) an accounting of the  
18 aggregate capital invested in the  
19 new commercial enterprise and  
20 job-creating entity by alien inves-  
21 tors under this paragraph for  
22 each capital investment project  
23 being undertaken by the new  
24 commercial enterprise;

1           “(bb) a description of how  
2 such capital is being used to exe-  
3 cute each capital investment  
4 project in the filed business plan  
5 or plans;

6           “(cc) evidence that 100 per-  
7 cent of such capital has actually  
8 been committed to each capital  
9 investment project;

10          “(dd) detailed evidence of  
11 the progress made toward the  
12 completion of each capital invest-  
13 ment project;

14          “(ee) an accounting of the  
15 aggregate direct jobs created or  
16 preserved;

17          “(ff) to the best of the re-  
18 gional center’s knowledge, for all  
19 fees, including administrative  
20 fees, loan monitoring fees, loan  
21 management fees, commissions  
22 and similar transaction-based  
23 compensation, collected from  
24 alien investors by the regional  
25 center, new commercial enter-

1           prise, any affiliated job-creating  
2           entity, or issuer of securities as-  
3           sociated with the regional center,  
4           or any promoter, finder, broker-  
5           dealer, or other entity engaged by  
6           any of the foregoing to locate  
7           alien investors investing pursuant  
8           to subparagraph (H)—

9                   “(AA) a description of  
10                   all fees collected;

11                   “(BB) an accounting of  
12                   the entities that received  
13                   such fees; and

14                   “(CC) the purpose for  
15                   which such fees were col-  
16                   lected;

17                   “(gg) any documentation re-  
18                   ferred to in subparagraph  
19                   (I)(i)(IV), if there has been a  
20                   material change during the pre-  
21                   ceding fiscal year; and

22                   “(hh) a certification by the  
23                   regional center that such state-  
24                   ments are accurate, to the best of



1 the certifier’s knowledge, after a  
2 due diligence investigation; and

3 “(VII) a description of the re-  
4 gional center’s policies and procedures  
5 that are designed to enable the re-  
6 gional center to comply with applica-  
7 ble Federal labor laws.

8 “(ii) AMENDMENT OF ANNUAL STATE-  
9 MENTS.—The Director—

10 “(I) shall require the regional  
11 center to amend or supplement an an-  
12 nual statement required under clause  
13 (i) if the Director determines that  
14 such statement is deficient; and

15 “(II) may require the regional  
16 center to amend or supplement such  
17 annual statement if the Director de-  
18 termines that such an amendment or  
19 supplement is appropriate.

20 “(iii) SANCTIONS.—

21 “(I) EFFECT OF VIOLATION.—  
22 The Director shall sanction any re-  
23 gional center entity in accordance  
24 with subclause (II) if the regional cen-  
25 ter fails to submit an annual state-

1                   ment or if the Director determines  
2                   that the regional center—

3                   “(aa) knowingly submitted  
4                   or caused to be submitted a  
5                   statement, certification, or any  
6                   information submitted pursuant  
7                   to this subparagraph that con-  
8                   tained an untrue statement of  
9                   material fact; or

10                  “(bb) is conducting itself in  
11                  a manner inconsistent with its  
12                  designation, including any willful,  
13                  undisclosed, and material devi-  
14                  ation by new commercial enter-  
15                  prises from any filed business  
16                  plan for such commercial enter-  
17                  prises.

18                  “(II) AUTHORIZED SANCTIONS.—

19                  The Director shall establish a grad-  
20                  uated set of sanctions based on the  
21                  severity of the violations referred to in  
22                  subclause (I), including—

23                  “(aa) fines equal to not  
24                  more than 10 percent of the total  
25                  capital invested by alien investors

1 in the regional center’s new com-  
2 mercial enterprises or job-cre-  
3 ating entities, the payment of  
4 which shall not in any cir-  
5 cumstance utilize any of such  
6 alien investors’ capital invest-  
7 ments, and which shall be depos-  
8 ited into the EB–5 Integrity  
9 Fund established under subpara-  
10 graph (M);

11 “(bb) temporary suspension  
12 from participation in the pro-  
13 gram described in subparagraph  
14 (H), which may be lifted by the  
15 Director if the individual or enti-  
16 ty cures the alleged violation  
17 after being provided such an op-  
18 portunity by the Director;

19 “(cc) permanent bar from  
20 program participation for one or  
21 more individuals associated with  
22 the regional center or new com-  
23 mercial enterprise or job-creating  
24 entity; and

1                   “(dd) termination of re-  
2                   gional center designation.

3                   “(K) BONA FIDES OF PERSONS INVOLVED  
4                   WITH REGIONAL CENTER PROGRAM.—

5                   “(i) IN GENERAL.—No person shall be  
6                   permitted to be involved with any regional  
7                   center, new commercial enterprise, or job-  
8                   creating entity if—

9                   “(I) the person has been found to  
10                  have committed—

11                  “(aa) a criminal or civil vio-  
12                  lation involving fraud or deceit  
13                  within the previous 10 years;

14                  “(bb) a civil violation result-  
15                  ing in a liability in excess of  
16                  \$1,000,000 involving fraud or de-  
17                  ceit; or

18                  “(cc) a crime resulting in a  
19                  conviction with a term of impris-  
20                  onment of more than 1 year;

21                  “(II) the person is subject to a  
22                  final order, for the duration of any  
23                  penalty imposed by such order, of a  
24                  State securities commission (or an  
25                  agency or officer of a State who per-

1 forms similar functions), a State au-  
2 thority that supervises or examines  
3 banks, savings associations, or credit  
4 unions, a State insurance commission  
5 (or an agency of or officer of a State  
6 who performs similar functions), an  
7 appropriate Federal banking agency,  
8 the Commodity Futures Trading  
9 Commission, the Securities and Ex-  
10 change Commission, a financial self-  
11 regulatory organization recognized by  
12 the Securities and Exchange Commis-  
13 sion, or the National Credit Union  
14 Administration, which is based on a  
15 violation of any law or regulation  
16 that—

17 “(aa) prohibits fraudulent,  
18 manipulative, or deceptive con-  
19 duct; or

20 “(bb) bars the person  
21 from—

22 “(AA) association with  
23 an entity regulated by such  
24 commission, authority, agen-  
25 cy, or officer;

1 “(BB) appearing before  
2 such commission, authority,  
3 agency, or officer;

4 “(CC) engaging in the  
5 business of securities, insur-  
6 ance, or banking; or

7 “(DD) engaging in sav-  
8 ings association or credit  
9 union activities;

10 “(III) the person is engaged in,  
11 has ever been engaged in, or seeks to  
12 engage in—

13 “(aa) any illicit trafficking  
14 in any controlled substance or in  
15 any listed chemical (as defined in  
16 section 102 of the Controlled  
17 Substances Act);

18 “(bb) any activity relating to  
19 espionage, sabotage, or theft of  
20 intellectual property;

21 “(cc) any activity related to  
22 money laundering (as described  
23 in section 1956 or 1957 of title  
24 18, United States Code);

1 “(dd) any terrorist activity  
2 (as defined in section  
3 212(a)(3)(B));

4 “(ee) any activity consti-  
5 tuting or facilitating human traf-  
6 ficking or a human rights of-  
7 fense;

8 “(ff) any activity described  
9 in section 212(a)(3)(E); or

10 “(gg) the violation of any  
11 statute, regulation, or Executive  
12 order regarding foreign financial  
13 transactions or foreign asset con-  
14 trol; or

15 “(IV) the person—

16 “(aa) is, or during the pre-  
17 ceding 10 years has been, in-  
18 cluded on the Department of  
19 Justice’s List of Currently Dis-  
20 ciplined Practitioners; or

21 “(bb) during the preceding  
22 10 years has received a rep-  
23 rimand or otherwise been publicly  
24 disciplined for conduct related to  
25 fraud or deceit by a State bar as-

1                   society of which the person is  
2                   or was a member.

3                   “(ii) FOREIGN INVOLVEMENT IN RE-  
4 REGIONAL CENTER PROGRAM.—

5                   “(I)    LAWFUL    STATUS    RE-  
6                   QUIRED.—No person may be involved  
7                   with a regional center unless the per-  
8                   son is a national of the United States  
9                   or an individual who has been lawfully  
10                  admitted for permanent residence (as  
11                  defined in paragraphs (20) and (22)  
12                  of section 101(a)).

13                  “(II) FOREIGN GOVERNMENTS.—  
14                  No foreign government entity may  
15                  provide capital to, or be directly or in-  
16                  directly involved with the ownership or  
17                  administration of, a regional center, a  
18                  new commercial enterprise, or a job-  
19                  creating entity.

20                  “(iii) INFORMATION REQUIRED.—The  
21                  Secretary shall require such attestations  
22                  and information, including the submission  
23                  of fingerprints or other biometrics to the  
24                  Federal Bureau of Investigation, and shall  
25                  perform such criminal record checks and



1 other background and database checks  
2 with respect to a regional center, new com-  
3 mercial enterprise, and any affiliated job-  
4 creating entity, and persons involved with  
5 such entities (as described in clause (v)),  
6 in order to determine whether such entities  
7 are in compliance with clauses (i) and (ii).  
8 The Secretary may require the information  
9 and attestations described in this clause  
10 from such entities, and any person involved  
11 with such entities, at any time on or after  
12 the date of the enactment of the American  
13 Job Creation and Investment Promotion  
14 Reform Act of 2016 and may perform such  
15 checks with respect to any job creating en-  
16 tity, and persons involved with such entity.

17 “(iv) TERMINATION.—

18 “(I) IN GENERAL.—The Sec-  
19 retary shall suspend or terminate the  
20 designation of any regional center, or  
21 the participation under the program  
22 of any new commercial enterprise or  
23 job-creating entity under this para-  
24 graph if the Secretary determines that  
25 such entity—

1 “(aa) knowingly involved a  
2 person with such entity in viola-  
3 tion of clause (i) or (ii);

4 “(bb) failed to provide an  
5 attestation or information re-  
6 quested by the Secretary; or

7 “(cc) knowingly provided  
8 any false attestation or informa-  
9 tion under clause (iii).

10 “(II) INFORMATION.—The Sec-  
11 retary, after the performance of the  
12 criminal record and other background  
13 checks described in clause (iii), shall  
14 notify a regional center, new commer-  
15 cial enterprise, or job-creating entity  
16 whether any person involved with such  
17 entities is not in compliance with  
18 clause (i) or (ii). If, 30 days after re-  
19 ceiving such notification, the regional  
20 center, new commercial enterprise, or  
21 job-creating entity, as the case may  
22 be, fails to discontinue the prohibited  
23 person’s involvement with the regional  
24 center, new commercial enterprise, or  
25 job-creating entity, as applicable, the

1 regional center, new commercial enter-  
2 prise, or job-creating entity shall be  
3 deemed to have knowledge under sub-  
4 clause (I)(aa) that such person is in  
5 violation of clause (i) or (ii).

6 “(v) PERSONS INVOLVED WITH A RE-  
7 GIONAL CENTER, NEW COMMERCIAL EN-  
8 TERPRISE, OR JOB-CREATING ENTITY.—

9 For the purposes of this subparagraph, a  
10 person is considered to be ‘involved’ with a  
11 regional center, a new commercial enter-  
12 prise, any affiliated job-creating entity, or  
13 other job-creating entity, as applicable, if  
14 he or she is, directly or indirectly, an  
15 owner or in a position of substantive au-  
16 thority to make operational or managerial  
17 decisions over pooling, securitization, in-  
18 vestment, release, acceptance, or control of  
19 any funding that was procured pursuant to  
20 subparagraph (H). An individual may be in  
21 a position of substantive authority if he or  
22 she serves as a principal, representative,  
23 administrator, owner, officer, board mem-  
24 ber, manager, executive, general partner,  
25 fiduciary, or in a similar position at the re-

1           gional center, new commercial enterprise,  
2           any affiliated job-creating entity, or other  
3           job-creating entity, respectively.

4           “(L) COMPLIANCE WITH SECURITIES  
5 LAWS.—

6           “(i) JURISDICTION.—

7                   “(I) IN GENERAL.—The United  
8 States has jurisdiction over the pur-  
9 chase or sale of any security offered  
10 or sold by any regional center or any  
11 party associated with a regional cen-  
12 ter for purposes of the securities laws.  
13 Subject matter jurisdiction shall also  
14 lie within the United States.

15                   “(II) COMPLIANCE WITH REGU-  
16 LATIONS.—Solely for purposes of sec-  
17 tion 5 of the Securities Act of 1933  
18 (15 U.S.C. 77e), a regional center or  
19 any party associated with a regional  
20 center is not precluded from offering  
21 or selling a security pursuant to Reg-  
22 ulation S under the Securities Act of  
23 1933 (15 U.S.C. 77a et seq.) to the  
24 extent that such offering or selling

1 otherwise complies with that regula-  
2 tion.

3 “(ii) REGIONAL CENTER CERTIFI-  
4 CATIONS REQUIRED.—

5 “(I) INITIAL CERTIFICATION.—

6 The Secretary of Homeland Security  
7 may not approve an application for re-  
8 gional center designation or regional  
9 center amendment unless the regional  
10 center certifies that, to the best of the  
11 certifier’s knowledge, after a due dili-  
12 gence investigation, the regional cen-  
13 ter is in compliance with and has poli-  
14 cies and procedures, such as those re-  
15 lated to internal and external due dili-  
16 gence, reasonably designed to confirm,  
17 as applicable, that all parties associ-  
18 ated with the regional center are and  
19 will remain in compliance with the se-  
20 curities laws of the United States and  
21 of any State in which the offer, pur-  
22 chase, or sale of securities was con-  
23 ducted, or the issuer of securities was  
24 located, or the investment advice was  
25 provided by the regional center or

1 parties associated with the regional  
2 center.

3 “(II) REISSUE.—A regional cen-  
4 ter shall annually reissue a certifi-  
5 cation described in subclause (I) in  
6 accordance with subparagraph (J).  
7 Annual certifications under this sub-  
8 clause shall also certify compliance  
9 with clause (iii) by stating that—

10 “(aa) the certifier is in a po-  
11 sition to have knowledge of the  
12 offers, purchases, and sales of se-  
13 curities or the provision of invest-  
14 ment advice by parties associated  
15 with the regional center;

16 “(bb) to the best of the cer-  
17 tifier’s knowledge, after a due  
18 diligence investigation, all such  
19 offers, purchases, and sales of se-  
20 curities or the provision of invest-  
21 ment advice complied with the se-  
22 curities laws of the United States  
23 and the securities laws of any  
24 State in which the offer, pur-  
25 chase, or sale of securities was

1 conducted, or the issuer of secu-  
2 rities was located, or the invest-  
3 ment advice was provided; and

4 “(cc) records, data, and in-  
5 formation related to such offers,  
6 purchases, and sales have been  
7 maintained.

8 “(III) EFFECT OF NONCOMPLI-  
9 ANCE.—If a regional center, through  
10 its due diligence, discovered during a  
11 previous fiscal year that the regional  
12 center or any party associated with  
13 the regional center was not in compli-  
14 ance with the securities laws of the  
15 United States or the securities laws of  
16 any State in which the securities ac-  
17 tivities were conducted by any party  
18 associated with the regional center,  
19 the certifier shall—

20 “(aa) describe the activities  
21 that led to noncompliance;

22 “(bb) describe the actions  
23 taken to remedy the noncompli-  
24 ance; and

1                   “(cc) certify that the re-  
2                   gional center and all parties asso-  
3                   ciated with the regional center  
4                   are currently in compliance, to  
5                   the best of the certifier’s knowl-  
6                   edge, after a due diligence inves-  
7                   tigation.

8                   “(iii) OVERSIGHT REQUIRED.—Each  
9                   regional center shall monitor and supervise  
10                  all offers, purchases, and sales of, and in-  
11                  vestment advice relating to securities made  
12                  by parties associated with the regional cen-  
13                  ter to confirm compliance with the securi-  
14                  ties laws of the United States, and main-  
15                  tain records, data, and information relat-  
16                  ing to all such offers, purchases, sales, and  
17                  investment advice during the 5-year period  
18                  beginning on the date of their creation.  
19                  Such records, data, and information shall  
20                  be made available to the Secretary upon  
21                  request.

22                  “(iv) SUSPENSION OR TERMI-  
23                  NATION.—In addition to any other author-  
24                  ity provided to the Secretary under this  
25                  paragraph, the Secretary, in the Sec-



1           retary’s discretion, may suspend or termi-  
2           nate the designation of any regional center,  
3           or impose other sanctions against the re-  
4           gional center, if—

5                   “(I) the regional center is perma-  
6                   nently or temporarily enjoined by  
7                   order, judgment, or decree of any  
8                   court of competent jurisdiction in con-  
9                   nection with the offer, purchase, or  
10                  sale of a security or the provision of  
11                  investment advice, or any party asso-  
12                  ciated with the regional center is so  
13                  enjoined and the regional center knew,  
14                  or reasonably should have known, that  
15                  this is the case;

16                  “(II) the regional center is sub-  
17                  ject to any final order of the Securi-  
18                  ties and Exchange Commission or a  
19                  State securities regulator, or any  
20                  party associated with the regional cen-  
21                  ter is subject to such an order and the  
22                  regional center knew, or reasonably  
23                  should have known, that this is the  
24                  case, if the order—

1           “(aa) bars such person from  
2           association with an entity regu-  
3           lated by the Securities and Ex-  
4           change Commission or a State  
5           securities regulator; or

6           “(bb) constitutes a final  
7           order based on a finding of an in-  
8           tentional violation or a violation  
9           related to fraud or deceit in con-  
10          nection with the offer, purchase,  
11          or sale of, or investment advice  
12          relating to, a security; or

13          “(III) the regional center sub-  
14          mitted or caused to be submitted a  
15          certification described in clause (ii)  
16          that contained an untrue statement of  
17          a material fact or omitted to state a  
18          material fact necessary in order to  
19          make the statements made, in light of  
20          the circumstances under which they  
21          were made, not misleading, or any  
22          party associated with the regional cen-  
23          ter undertook such an action and the  
24          regional center knew, or reasonably

1                   should have known, that this is the  
2                   case.

3                   “(v) SAVINGS PROVISION.—Nothing in  
4                   this subparagraph may be construed to im-  
5                   pair or limit the authority of the Securities  
6                   and Exchange Commission under the Fed-  
7                   eral securities laws or any State securities  
8                   regulator under State securities laws.

9                   “(vi) DEFINED TERM.—In this sub-  
10                  paragraph, the term ‘party associated with  
11                  a regional center’ means—

12                   “(I) the regional center;

13                   “(II) any new commercial enter-  
14                  prise or affiliated job-creating entity  
15                  or issuer of securities associated with  
16                  the regional center;

17                   “(III) the regional center’s and  
18                  new commercial enterprise’s owners,  
19                  officers, directors, managers, partners,  
20                  agents, employees, promoters and at-  
21                  torneys; or

22                   “(IV) any person in active con-  
23                  cert or participation with the regional  
24                  center or directly or indirectly control-

1 ling, controlled by, or under common  
2 control with the regional center.

3 “(M) EB–5 INTEGRITY FUND.—

4 “(i) ESTABLISHMENT.—There is es-  
5 tablished in the United States Treasury a  
6 special fund, which shall be known as the  
7 ‘EB–5 Integrity Fund’ (referred to in this  
8 subparagraph as the ‘Fund’). Amounts de-  
9 posited into the Fund shall be available to  
10 the Secretary of Homeland Security until  
11 expended for the purposes set forth in  
12 clause (iii).

13 “(ii) FEES.—

14 “(I) ANNUAL FEE.—Beginning  
15 on January 1, 2017, and each year  
16 thereafter, the Secretary of Homeland  
17 Security shall collect a fee of \$25,000  
18 for the Fund from each regional cen-  
19 ter designated under subparagraph  
20 (H). The fee shall be \$10,000 if a re-  
21 gional center has 20 or fewer alien in-  
22 vestors investing pursuant to subpara-  
23 graph (H) in the immediately pre-  
24 ceding fiscal year in its new commer-  
25 cial enterprises.

1 “(II) PETITION FEE.—Beginning  
2 on October 1, 2016, the Secretary  
3 shall collect a fee of \$2,000 for the  
4 Fund with each petition filed pursu-  
5 ant to section 204(a)(1)(H) for classi-  
6 fication under this paragraph pursu-  
7 ant to subparagraph (H).

8 “(III) INCREASES.—The Sec-  
9 retary may prescribe regulations, as  
10 necessary, to increase the dollar  
11 amounts under this clause to ensure  
12 the Secretary’s continued ability to  
13 carry out the activities specified in  
14 clause (iii).

15 “(iii) PERMISSIBLE USES OF FUND.—  
16 The Secretary shall—

17 “(I) use not less than  $\frac{1}{3}$  of the  
18 amounts deposited into the Fund to  
19 conduct audits and site visits (with or  
20 without notice);

21 “(II) use not less than  $\frac{1}{3}$  of the  
22 amounts deposited into the Fund for  
23 investigations based outside of the  
24 United States, including—

1 “(aa) monitoring and inves-  
2 tigating program-related events  
3 and promotional activities; and

4 “(bb) ensuring an alien in-  
5 vestor’s compliance with subpara-  
6 graph (D);

7 “(III) use amounts deposited into  
8 the Fund—

9 “(aa) to detect and inves-  
10 tigate fraud or other crimes; and

11 “(bb) to determine whether  
12 regional centers, new commercial  
13 enterprises, any affiliated job-cre-  
14 ating entities, and alien investors  
15 (and their alien spouses and alien  
16 children, if any) comply with ap-  
17 plicable immigration laws;

18 “(IV) use amounts deposited into  
19 the Fund to conduct interviews of the  
20 owners, officers, directors, managers,  
21 partners, agents, employees, pro-  
22 moters, and attorneys of regional cen-  
23 ters, new commercial enterprises, and  
24 job-creating entities; and

1 “(V) otherwise use amounts de-  
2 posited into the Fund as the Sec-  
3 retary determines to be necessary, in-  
4 cluding monitoring compliance with  
5 the requirements under section 8 of  
6 the American Job Creation and In-  
7 vestment Promotion Reform Act of  
8 2016.

9 “(iv) FAILURE TO PAY FEE.—The  
10 Secretary of Homeland Security shall—

11 “(I) impose a reasonable penalty,  
12 which shall be deposited into the  
13 Fund, if a regional center does not  
14 pay the fee required under clause  
15 (ii)(I) within 30 days of the date on  
16 which such clause requires the Sec-  
17 retary to collect the fee; and

18 “(II) terminate the designation  
19 of any regional center that does not  
20 pay the fee required under clause  
21 (ii)(I) within 90 days of the date on  
22 which such clause requires the Sec-  
23 retary to collect the fee.

24 “(v) REPORT.—The Secretary shall  
25 submit an annual report to the Committee

1 on the Judiciary of the Senate and the  
2 Committee on the Judiciary of the House  
3 of Representatives that describes how  
4 amounts in the Fund were expended dur-  
5 ing the immediately preceding fiscal year.

6 “(N) DIRECT AND THIRD-PARTY PRO-  
7 MOTERS.—

8 “(i) RULES AND STANDARDS.—Direct  
9 and third party promoters of a regional  
10 center, any new commercial enterprise, an  
11 affiliated job-creating entity, or issuer of  
12 securities affiliated with the regional center  
13 shall comply with the rules and standards  
14 prescribed by the Secretary of Homeland  
15 Security and any applicable Federal or  
16 State securities laws, to oversee regional  
17 center promotion, including—

18 “(I) registration with U.S. Citi-  
19 zenship and Immigration Services,  
20 which—

21 “(aa) may be limited to  
22 identifying and contact informa-  
23 tion of such promoter and con-  
24 firmation of the existence of the



1 written agreement required by  
2 clause (iii); and

3 “(bb) shall not include any  
4 requirement that U.S. Citizen-  
5 ship and Immigration Services  
6 approve the registration of such  
7 promoter;

8 “(II) minimum qualifications;

9 “(III) guidelines for offering in-  
10 vestment opportunities and rep-  
11 resenting the visa process to prospec-  
12 tive investors under the program es-  
13 tablished under subparagraph (H);  
14 and

15 “(IV) permissible fee arrange-  
16 ments.

17 “(ii) EFFECT OF VIOLATION.—If the  
18 Secretary determines that a direct or  
19 third-party promoter has violated clause  
20 (i), the Secretary shall suspend or perma-  
21 nently bar such individual from participa-  
22 tion in the program described in this para-  
23 graph.

24 “(iii) COMPLIANCE.—Each regional  
25 center shall maintain a written agreement

1 between the regional center, the new com-  
2 mercial enterprise, any affiliated job-cre-  
3 ating entity, or any issuer of securities af-  
4 filiated with the regional center, and each  
5 direct or third-party promoter operating on  
6 behalf of such entities or issuer that out-  
7 lines the rules and standards prescribed  
8 under clause (i).

9 “(iv) DISCLOSURE.—Each petition  
10 filed pursuant to section 204(a)(1)(H) for  
11 classification under this paragraph pursu-  
12 ant to subparagraph (H) shall include a  
13 disclosure, signed by the alien investor,  
14 that reflects all fees, ongoing interest, and  
15 other compensation paid to any person  
16 that the regional center or new commercial  
17 enterprise knows has received, or will re-  
18 ceive, in connection with the investment,  
19 including compensation to agents, finders,  
20 or broker dealers involved in the offering,  
21 to the extent not already specifically identi-  
22 fied in the business plan filed under sub-  
23 paragraph (I).

1 “(v) PUBLICATION.—The list of such  
2 registered promoters may be made publicly  
3 available by the Secretary.

4 “(O) TREATMENT OF GOOD FAITH INVES-  
5 TORS FOLLOWING PROGRAM NONCOMPLI-  
6 ANCE.—

7 “(i) TERMINATION OR DEBARMENT  
8 OF EB-5 ENTITY.—Except as provided in  
9 clause (v), upon the termination or debar-  
10 ment, as applicable, from the program  
11 under this paragraph of a regional center,  
12 new commercial enterprise, or job-creating  
13 entity, an otherwise qualified petition  
14 under section 204(a)(1)(H) or the condi-  
15 tional permanent residence of an alien who  
16 has been admitted to the United States  
17 pursuant to section 216A(a)(1) based on  
18 an investment in a terminated regional  
19 center, new commercial enterprise, or job-  
20 creating entity shall remain valid or con-  
21 tinue to be authorized, as applicable, con-  
22 sistent with this subparagraph.

23 “(ii) NEW REGIONAL CENTER OR IN-  
24 VESTMENT.—The petition under section  
25 204(a)(1)(H) of an alien described in

1 clause (i) and the conditional permanent  
2 resident status of an alien described in  
3 clause (i) shall be terminated 180 days  
4 after the termination from the program  
5 under this paragraph of a regional center,  
6 a new commercial enterprise, or a job cre-  
7 ating entity unless—

8 “(I) in the case of the termi-  
9 nation of a regional center—

10 “(aa) the new commercial  
11 enterprise associates with an ap-  
12 proved regional center;

13 “(bb) such alien makes a  
14 qualifying investment in another  
15 new commercial enterprise associ-  
16 ated with an approved regional  
17 center; or

18 “(cc) such alien makes a  
19 qualifying investment in another  
20 new commercial enterprise under  
21 this paragraph not associated  
22 with a regional center; or

23 “(II) in the case of the debar-  
24 ment of a new commercial enterprise  
25 or job-creating entity, such alien in-

1 vests in another new commercial en-  
2 terprise associated with an approved  
3 regional center.

4 “(iii) REMOVAL OF CONDITIONS.—  
5 Aliens described in subclause (I)(bb),  
6 (I)(cc), or (II) of clause (ii) shall be eligi-  
7 ble to have their conditions removed pursu-  
8 ant to section 216A beginning on the date  
9 that is 2 years after the date of the subse-  
10 quent investment.

11 “(iv) IN CASE OF ENFORCEMENT AC-  
12 TION.—Except as provided in clause (v), if  
13 the Secretary, the Attorney General, or the  
14 Securities and Exchange Commission files  
15 a criminal or civil enforcement action in  
16 any United States District Court con-  
17 taining allegations that a regional center,  
18 new commercial enterprise, job-creating en-  
19 tity, or any person involved with the fore-  
20 going entities, committed fraud which af-  
21 fected an alien’s investment capital under  
22 subparagraph (A), or if a State authority  
23 or agency files such an action in a State  
24 court—

1 “(I) for all related petitions for  
2 classification under this paragraph  
3 and petitions for removal of conditions  
4 described in section 216A—

5 “(aa) the Secretary may  
6 hold such petitions in abeyance  
7 unless ordered to take action by  
8 the United States District Court  
9 overseeing such action, if applica-  
10 ble; and

11 “(bb) the United States Dis-  
12 trict Court overseeing such ac-  
13 tion, if applicable, may enter an  
14 order extending any deadlines ap-  
15 plicable under this paragraph  
16 and to prevent age-out of deriva-  
17 tive beneficiaries;

18 “(II) the alien investor may—

19 “(aa) petition to amend the  
20 alien’s underlying petition for  
21 classification under this para-  
22 graph or the petition for removal  
23 of conditions described in section  
24 216A(c) without such facts un-

1                   derlying the amendment being  
2                   deemed a material change; and

3                   “(bb) retain the immigrant  
4                   visa priority date related to the  
5                   original petition; and

6                   “(III) any funds obtained or re-  
7                   covered by an alien investor, directly  
8                   or indirectly, from claims against  
9                   third parties, including insurance pro-  
10                  ceeds, or any additional investment  
11                  capital provided by the alien after the  
12                  enforcement action described in this  
13                  clause is filed, may be deemed to be  
14                  such alien’s investment capital for the  
15                  purposes of subparagraph (A) if such  
16                  investment otherwise complies with  
17                  the requirements of this paragraph  
18                  and section 216A.

19                  “(v) EXCEPTION.—If the Secretary  
20                  has reason to believe an alien was a know-  
21                  ing participant in the conduct that led to  
22                  the termination of a regional center, new  
23                  commercial enterprise, or job-creating enti-  
24                  ty, as described in clause (i), or was a  
25                  knowing participant in the alleged wrong-

1 doing that led to an enforcement action de-  
2 scribed in clause (iv)—

3 “(I) the alien shall not be ac-  
4 corded any benefit under this sub-  
5 paragraph; and

6 “(II) the Secretary shall notify  
7 the alien of such belief and, subject to  
8 section 216A(b)(2), shall deny or ini-  
9 tiate proceedings to revoke the ap-  
10 proval of such alien’s petition, applica-  
11 tion, or benefit (and that of any  
12 spouse or child, if applicable) de-  
13 scribed in this paragraph.

14 “(P) ACCOUNT TRANSPARENCY REQUIRE-  
15 MENT.—

16 “(i) IN GENERAL.—Except as pro-  
17 vided in clause (iii), a new commercial en-  
18 terprise shall deposit and maintain the  
19 capital investment of each alien investor in  
20 a separate account as described in this  
21 subparagraph, including funds held in es-  
22 crow.

23 “(ii) REQUIREMENTS FOR SEPARATE  
24 ACCOUNTS.—



“(I) REQUIRED INFORMATION.—

Prior to, or within one business day of, the deposit of an alien investor’s capital investment in a separate account, the new commercial enterprise shall provide the following information to the alien investor whose capital investment will be or has been deposited into the separate account, the regional center associated with the new commercial enterprise, and the Director of U.S. Citizenship and Immigration Services:

“(aa) The name, address, and other contact information of the bank or other financial institution where the separate account is or will be maintained and the name of the authorized signatory required under subclause (II).

“(bb) Sufficient information to enable the alien investor whose capital investment will be or has been deposited into the separate

1 account, the regional center asso-  
2 ciated with the new commercial  
3 enterprise, and the Director to  
4 view online the balance in the  
5 separate account on an ongoing  
6 basis.

7 “(II) AUTHORIZED SIGNATO-  
8 RIES.—At least one of the authorized  
9 signatories to the separate account  
10 shall be an individual who is—

11 “(aa) independent of, and  
12 not directly or indirectly related  
13 to, the new commercial enter-  
14 prise, the regional center associ-  
15 ated with the new commercial en-  
16 terprise, the job creating entity,  
17 or any of the principals or man-  
18 agers of such entities; and

19 “(bb) an officer at the bank  
20 or other financial institution  
21 where the separate account is  
22 maintained; licensed, active, and  
23 in good standing as an attorney,  
24 certified public accountant, or  
25 broker-dealer; or otherwise au-

1                   thorized by the Director to serve  
2                   as a signatory.

3                   “(iii) TRANSFERS FROM A SEPARATE  
4                   ACCOUNT.—

5                   “(I) IN GENERAL.—The funds in  
6                   a separate account may be transferred  
7                   only—

8                   “(aa) to the alien investor  
9                   who contributed the funds held in  
10                  the separate account as a refund  
11                  of that investor’s capital invest-  
12                  ment if otherwise permitted  
13                  under this paragraph, to another  
14                  separate account, or to a job cre-  
15                  ating entity or otherwise deployed  
16                  into the capital investment  
17                  project for which the funds were  
18                  intended; and

19                  “(bb) after at least one of  
20                  the authorized signatories de-  
21                  scribed in clause (ii)(II) has pro-  
22                  vided written consent for the pro-  
23                  posed transfer.

24                  “(II) NOTICE.—Prior to, or with-  
25                  in one business day of, funds being

1 transferred from a separate account,  
2 the new commercial enterprise shall  
3 provide notice to the alien investor  
4 whose capital investment has been or  
5 will be transferred from the separate  
6 account, the regional center associated  
7 with the new commercial enterprise,  
8 and the Director, including—

9 “(aa) the amount of the  
10 funds that are to be or were  
11 transferred; and

12 “(bb) the destination of the  
13 transferred funds, including  
14 whether the funds are trans-  
15 ferred to another separate ac-  
16 count, or transferred directly to a  
17 job creating entity or otherwise  
18 deployed into the capital invest-  
19 ment project for which the funds  
20 were intended.

21 “(III) TRANSFER OF FUNDS.—In  
22 the case of a transfer of funds from a  
23 separate account maintained by a new  
24 commercial enterprise to an affiliated  
25 job creating entity, the affiliated job

1           creating entity shall maintain the  
2           funds in a separate account that  
3           meets the requirements of this section  
4           until the funds are deployed into the  
5           capital investment project for which  
6           they were intended. Within 30 days of  
7           the deployment of the funds into the  
8           capital investment project for which  
9           they were intended, an individual who  
10          is licensed, active, and in good stand-  
11          ing as an attorney, certified public ac-  
12          countant, or broker-dealer, or an indi-  
13          vidual otherwise authorized by the Di-  
14          rector to serve as a signatory, shall  
15          verify that the funds were deployed  
16          into the capital investment project for  
17          which they were intended and shall so  
18          notify the alien investor whose capital  
19          investment was invested, the regional  
20          center associated with the capital in-  
21          vestment project, and the Director.

22               “(iv) ELECTRONIC MAIL AUTHOR-  
23          IZED.—Any notice or information to be  
24          provided under this section may be given  
25          via electronic mail.

1 “(v) DEFINITIONS.—In this subpara-  
2 graph:

3 “(I) The term ‘financial institu-  
4 tion’ has the meaning given such term  
5 by section 20 of title 18, United  
6 States Code.

7 “(II) The term ‘separate account’  
8 means an account—

9 “(aa) maintained in the  
10 United States by a new commer-  
11 cial enterprise at a federally reg-  
12 ulated bank or at another finan-  
13 cial institution in the United  
14 States that is insured; and

15 “(bb) that contains only the  
16 pooled investment funds of alien  
17 investors in a new commercial  
18 enterprise with respect to a sin-  
19 gle capital investment project.”.

20 (c) EFFECTIVE DATES.—

21 (1) IN GENERAL.—Except as provided in para-  
22 graph (2), the amendments made by this section  
23 shall be effective at any time after the date of the  
24 enactment of this Act, as determined by the Sec-

1       retary, and shall be effective not later than 90 days  
2       after such date of enactment.

3           (2) EXCEPTIONS.—

4           (A) Clauses (iv) and (v) of subparagraph  
5       (H) of section 203(b)(5) of the Immigration  
6       and Nationality Act (8 U.S.C. 1153(b)(5)), as  
7       inserted by subsection (b), shall not apply to a  
8       petition that—

9           (i) was filed by an alien investor  
10       under such section 203(b)(5) prior to June  
11       1, 2015;

12          (ii) was filed by an alien investor  
13       under such section 203(b)(5) during the  
14       period beginning on June 1, 2015, and  
15       ending on the date of the enactment of this  
16       Act if such beneficiary is investing in the  
17       same commercial enterprise concerning the  
18       same economic activity as contained in an  
19       exemplar filed prior to June 1, 2015, or  
20       approved by the Secretary of Homeland  
21       Security at any time prior to the date of  
22       enactment of this Act, unless the Secretary  
23       determines that such approval or filing was  
24       based on fraud, misrepresentation in the

1 record of proceeding, or is legally deficient;

2 or

3 (iii) is filed under section 216A of  
4 such Act (8 U.S.C. 1186b) if the under-  
5 lying petition filed under section 203(b)(5)  
6 of such Act was filed prior to June 1,  
7 2015, or approved before the date of the  
8 enactment of this Act.

9 (B) Subparagraph (P) of section 203(b)(5)  
10 of the Immigration and Nationality Act (8  
11 U.S.C. 1153(b)(5)), as inserted by subsection  
12 (b), shall take effect 1 year after the date of the  
13 enactment of this Act and shall apply to any  
14 application filed by a regional center for ap-  
15 proval of an investment under subparagraph (I)  
16 of such section 203(b)(5), as so inserted, filed  
17 on or after such date.

18 **SEC. 4. OTHER EB-5 VISA REFORMS.**

19 (a) TYPE OF INVESTMENT.—Section 203(b)(5)(A) of  
20 the Immigration and Nationality Act (8 U.S.C.  
21 1153(b)(5)(A)), is amended—

22 (1) in the matter preceding clause (i), by strik-  
23 ing “(including a limited partnership)”;



1           (2) in clause (i), by striking “(C),” and insert-  
 2           ing “(B), and which is expected to remain invested  
 3           for not less than 2 years;”; and

4           (3) in clause (ii)—

5                   (A) by striking “and create” and inserting  
 6                   “by creating”; and

7                   (B) by inserting “, United States nation-  
 8                   als,” after “citizens”.

9           (b) TARGETED EMPLOYMENT AREAS.—Section  
 10   203(b)(5)(B) of the Immigration and Nationality Act (8  
 11   U.S.C. 1153(b)(5)(B)) is amended to read as follows:

12                   “(B) VISA SET-ASIDES AND AREA DES-  
 13                   IGNATIONS.—

14                           “(i) RESERVED VISAS.—

15                                   “(I) IN GENERAL.—Of the visas  
 16                                   made available under this paragraph  
 17                                   in each fiscal year—

18   “(aa) 2,000 shall be re-  
 19   served for immigrants who invest  
 20   in rural areas; and

21   “(bb) 2,000 shall be re-  
 22   served for immigrants who invest  
 23   in priority urban investment  
 24   areas.

1                   “(II) UNUSED VISAS.—At the  
2                   end of each fiscal year, any unused  
3                   visa within each category described in  
4                   subclause (I) shall remain available  
5                   within the same category for subse-  
6                   quent fiscal years.

7                   “(ii) ELIGIBILITY.—The Secretary of  
8                   Homeland Security shall determine eligi-  
9                   bility for designation as a targeted employ-  
10                  ment area and shall not be bound by the  
11                  determination of any other governmental  
12                  or nongovernmental entity.

13                  “(iii) DESIGNATION OF INFRASTRUC-  
14                  TURE PROJECT, MANUFACTURING  
15                  PROJECT, AND TARGETED EMPLOYMENT  
16                  AREA.—

17                  “(I) INFRASTRUCTURE PROJECT  
18                  OR MANUFACTURING PROJECT.—The  
19                  designation of an infrastructure  
20                  project or manufacturing project shall  
21                  be made at the time of the invest-  
22                  ment.

23                  “(II) TARGETED EMPLOYMENT  
24                  AREA.—The designation of a targeted  
25                  employment area—

1                   “(aa) may be made at the  
2                   time of the investment or at the  
3                   time an application is filed under  
4                   subparagraph (I); and

5                   “(bb) shall be valid for a 2-  
6                   year period.

7                   “(III) DESIGNATIONS AND RE-  
8                   NEWALS.—The Secretary shall estab-  
9                   lish a process by which regional cen-  
10                  ters may request a designation under  
11                  subclause (I) or (II). A designation  
12                  under either such subclause shall be  
13                  issued not later than 60 days after a  
14                  request by a regional center and a  
15                  designation under subclause (II) may  
16                  be renewed for additional 2-year peri-  
17                  ods if the area continues to meet the  
18                  definition of a targeted employment  
19                  area. An alien investor who has made  
20                  the required amount of investment in  
21                  such an area during its period of des-  
22                  ignation shall not be required to in-  
23                  crease the amount of investment  
24                  based upon expiration of the designa-  
25                  tion. The Secretary shall establish a

1 fee for the adjudication of a designa-  
 2 tion request at a level that is suffi-  
 3 cient to ensure the full recovery of the  
 4 costs of providing such adjudication  
 5 within the required timeframe. Noth-  
 6 ing in this clause shall be deemed to  
 7 prohibit an investor from filing a peti-  
 8 tion before such designation is  
 9 made.”.

10 (c) ADJUSTMENT OF MINIMUM INVESTMENT  
 11 AMOUNT.—

12 (1) IN GENERAL.—Section 203(b)(5)(C) of such  
 13 Act (8 U.S.C. 1153(b)(5)(C)) is amended—

14 (A) by redesignating clause (iii) as clause  
 15 (iv);

16 (B) by striking clauses (i) and (ii) and in-  
 17 serting the following:

18 “(i) MINIMUM INVESTMENT  
 19 AMOUNTS.—Except as otherwise provided  
 20 in this subparagraph, the amount of cap-  
 21 ital required under subparagraph (A) shall  
 22 be—

23 “(I) \$1,200,000 (except as pro-  
 24 vided in subclause (II)); or

1                   “(II) \$800,000 in the case of an  
2                   investment in an infrastructure  
3                   project, a manufacturing project, or a  
4                   project that is physically located in a  
5                   targeted employment area.

6                   “(ii) AUTHORITY TO INCREASE IN-  
7                   VESTMENT AMOUNTS.—The Secretary may  
8                   periodically prescribe regulations increas-  
9                   ing the dollar amount specified under  
10                  clause (i) if any such increase simulta-  
11                  neously affects each category of investment  
12                  under clause (i) by the same percentage.  
13                  The Secretary shall publish a notice in the  
14                  Federal Register no later than the date  
15                  that is 60 days prior to the date upon  
16                  which the increase will take effect.

17                  “(iii) AUTOMATIC ADJUSTMENT OF  
18                  MINIMUM INVESTMENT AMOUNTS.—Begin-  
19                  ning on January 1, 2022, and on every  
20                  fifth subsequent January 1, after notice in  
21                  the Federal Register is published for not  
22                  less than 60 days, the Secretary shall ad-  
23                  just each of the minimum amounts speci-  
24                  fied in clause (i) as follows:

1                   “(I) NO INCREASES IN PREVIOUS  
2                   5 FISCAL YEARS.—If the Secretary did  
3                   not increase the minimum amount  
4                   during the 5 prior fiscal years con-  
5                   cluding with the fiscal year ending on  
6                   September 30 of the prior calendar  
7                   year, the amounts specified in clause  
8                   (i) shall automatically be adjusted by  
9                   the amount of the cumulative percent-  
10                  age change in the Consumer Price  
11                  Index (CPI–U) for the previous 5 fis-  
12                  cal years, rounded to the nearest mul-  
13                  tiple of \$10,000.

14                  “(II) INCREASES BELOW CPI–U  
15                  DURING PREVIOUS 5 FISCAL YEARS.—  
16                  If the Secretary increased the min-  
17                  imum amount during the previous 5  
18                  fiscal years by an amount that is less  
19                  than the cumulative percentage  
20                  change in the CPI–U during the pre-  
21                  vious 5 fiscal years, the amounts spec-  
22                  ified in clause (i) shall automatically  
23                  be adjusted by the amount of such cu-  
24                  mulative percentage change for such  
25                  period minus any increase previously

prescribed by the Secretary by regulations, rounded to the nearest multiple of \$10,000.

“(III) INCREASES ABOVE CPI–U DURING PREVIOUS 5 FISCAL YEARS.—

If the Secretary increased the minimum amount during the previous 5 fiscal years by an amount that is greater than the cumulative percentage change in the CPI–U during the previous 5 fiscal years, the amounts specified in clause (i) shall not be increased.”; and

(C) in clause (iv), as redesignated, by striking “Attorney General” and inserting “Secretary”.

(2) REDESIGNATIONS.—Section 203(b)(5) of such Act (8 U.S.C. 1153(b)(5)) is amended—

(A) by redesignating subparagraph (B), as amended by subsection (b), as subparagraph (C);

(B) by redesignating the second subparagraph (C), as amended by paragraph (1), as subparagraph (B); and

1 (C) by moving subparagraph (B), as so re-  
2 designated, so that it appears after subpara-  
3 graph (A).

4 (d) REQUIRED CHECKS.—Section 203(b)(5) of the  
5 Immigration and Nationality Act, as amended by sections  
6 2 and 3, is further amended by inserting after subpara-  
7 graph (O) the following:

8 “(P) REQUIRED CHECKS.—An alien inves-  
9 tor, alien spouse, or alien child may not be  
10 granted the status of an alien lawfully admitted  
11 for permanent residence under this paragraph  
12 unless the Secretary of Homeland Security has  
13 determined that such alien is not on the De-  
14 partment of the Treasury’s Office of Foreign  
15 Assets Control Specially Designated Nationals  
16 List.”.

17 (e) DEFINITIONS.—

18 (1) IN GENERAL.—Section 203(b)(5) of such  
19 Act (8 U.S.C. 1153(b)(5)), as amended by sections  
20 2 and 3 of this Act, is further amended by striking  
21 the second subparagraph (D) (relating to defini-  
22 tions) and inserting the following:

23 “(Q) DEFINITIONS.—In this paragraph:

24 “(i) AFFILIATED JOB-CREATING ENTI-  
25 TY.—The term ‘affiliated job-creating enti-



1           ty’ means any job-creating entity that is  
2           directly or indirectly controlled, managed,  
3           or owned by any of the persons involved  
4           with the regional center or new commercial  
5           enterprise under section 203(b)(5)(K)(v).

6           “(ii) CAPITAL.—The term ‘capital’—

7                   “(I) means cash and all real, per-  
8                   sonal, or mixed tangible assets owned  
9                   and controlled by the alien investor,  
10                  or held in trust for the benefit of the  
11                  alien and to which the alien has unre-  
12                  stricted access;

13                  “(II) shall be valued at fair mar-  
14                  ket value in United States dollars, in  
15                  accordance with Generally Accepted  
16                  Accounting Principles or other stand-  
17                  ard accounting practice adopted by  
18                  the Securities and Exchange Commis-  
19                  sion, at the time it is invested under  
20                  this paragraph; and

21                  “(III) shall not include assets ac-  
22                  quired, directly or indirectly, by un-  
23                  lawful means, including any cash pro-  
24                  ceeds of indebtedness secured by such  
25                  assets.

1                   “(iii) CERTIFIER.—The term ‘cer-  
2                   tifier’ means a person in a position of sub-  
3                   stantive authority for the management or  
4                   operations of a regional center, new com-  
5                   mercial enterprise, affiliated job-creating  
6                   entity, or issuer of securities, such as a  
7                   principal executive officer or principal fi-  
8                   nancial officer, with knowledge of such en-  
9                   tity’s policies and procedures related to  
10                  compliance with the requirements of this  
11                  paragraph.

12                  “(iv) FULL-TIME EMPLOYMENT.—The  
13                  term ‘full-time employment’ means employ-  
14                  ment in a position that requires at least 35  
15                  hours of service per week for at least a 24-  
16                  month period, regardless of who fills the  
17                  position. A position or job that is filled by  
18                  more than 1 employee may be considered  
19                  full-time employment for purposes of sub-  
20                  paragraph (A)(ii).

21                  “(v) INFRASTRUCTURE PROJECT.—  
22                  The term ‘infrastructure project’ means a  
23                  capital investment project in a filed or ap-  
24                  proved business plan, which is adminis-  
25                  tered by a governmental entity, such as a

1 Federal, State, or local agency or author-  
2 ity, in which the entity contracts with a re-  
3 gional center, new commercial enterprise,  
4 or job-creating entity to receive capital in-  
5 vestment under the regional center pro-  
6 gram described in subparagraph (H) from  
7 alien investors or the new commercial en-  
8 terprise as financing for maintaining, im-  
9 proving, or constructing a public works  
10 project.

11 “(vi) **JOB-CREATING ENTITY.**—The  
12 term ‘job-creating entity’ means any orga-  
13 nization formed in the United States for  
14 the ongoing conduct of lawful business, in-  
15 cluding a partnership (whether limited or  
16 general), corporation, limited liability com-  
17 pany, or other entity that receives, or is es-  
18 tablished to receive, capital investment  
19 from alien investors or a new commercial  
20 enterprise under the regional center pro-  
21 gram described in subparagraph (H) and  
22 which is responsible for creating jobs to  
23 satisfy the requirement under subpara-  
24 graph (A)(ii).

1 “(vii) MANUFACTURING PROJECT.—

2 The term ‘manufacturing project’ means a  
3 capital investment project in a filed or ap-  
4 proved business plan, the purpose of which  
5 is to improve, construct, or operate a  
6 plant, factory, or mill, which primarily ex-  
7 ists in order to produce or assemble a  
8 product in the United States.

9 “(viii) NEW COMMERCIAL ENTER-  
10 PRISE.—The term ‘new commercial enter-  
11 prise’ means any for-profit organization  
12 formed in the United States for the ongo-  
13 ing conduct of lawful business, including a  
14 partnership (whether limited or general),  
15 corporation, limited liability company, or  
16 other entity that receives, or is established  
17 to receive, capital investment from alien in-  
18 vestors under subparagraph (H).

19 “(ix) PRIORITY URBAN INVESTMENT  
20 AREA.—The term ‘priority urban invest-  
21 ment area’ means an area consisting of a  
22 census tract or tracts, each of which is in  
23 a metropolitan statistical area and, using  
24 the most recent census data available, each  
25 of which has—

1 “(I) an unemployment rate that  
2 is at least 150 percent of the national  
3 average unemployment rate;

4 “(II) a poverty rate that is at  
5 least 30 percent; or

6 “(III) a median family income  
7 that is not more than 60 percent of  
8 the greater of the statewide median  
9 family income or the metropolitan sta-  
10 tistical area median family income.

11 “(x) RURAL AREA.—The term ‘rural  
12 area’ means an area that—

13 “(I) is outside of the outer  
14 boundary of any city or town having  
15 a population of 20,000 or more (based  
16 on the most recent decennial census of  
17 the United States); and

18 “(II) is—

19 “(aa) outside of a metropoli-  
20 tan statistical area;

21 “(bb) within an outlying  
22 county of a metropolitan statis-  
23 tical area; or

24 “(cc) within any census  
25 tract that is greater than 100

1 square miles in area and has a  
2 population density of fewer than  
3 100 people per square mile.

4 “(xi) TARGETED EMPLOYMENT  
5 AREA.—The term ‘targeted employment  
6 area’ means—

7 “(I) a priority urban investment  
8 area;

9 “(II) a rural area;

10 “(III) any area within the geo-  
11 graphic boundaries of any military in-  
12 stallation that was closed, during the  
13 25-year period immediately preceding  
14 the filing of an application under sub-  
15 paragraph (F) based upon a rec-  
16 ommendation by the Defense Base  
17 Closure and Realignment Commission;  
18 or

19 “(IV) an area consisting of a  
20 census tract or contiguous census  
21 tracts, each of which, using the most  
22 recent census data available—

23 “(aa) is not located within a  
24 metropolitan statistical area; and

1                   “(bb) has a poverty rate  
2                   that is at least 20 percent or a  
3                   median family income that is not  
4                   more than 80 percent of the  
5                   statewide median family in-  
6                   come.”.

7                   (2) RULEMAKING.—The Secretary of Homeland  
8                   Security shall issue appropriate regulations to ac-  
9                   count for the modified definition of targeted employ-  
10                  ment area in section 203(b)(5)(Q)(xi) of the Immi-  
11                  gration and Nationality Act, as added by paragraph  
12                  (1), within 180 days of the enactment of this Act.

13                  (f) AGE DETERMINATION FOR CHILDREN OF ALIEN  
14                  INVESTORS.—Section 203(h) of such Act (8 U.S.C.  
15                  1153(h)) is amended by adding at the end the following:

16                  “(5) AGE DETERMINATION FOR CHILDREN OF  
17                  ALIEN INVESTORS.—An alien who has reached 21  
18                  years of age and has been admitted under subsection  
19                  (d) as a lawful permanent resident on a conditional  
20                  basis as the child of an alien lawfully admitted for  
21                  permanent residence under subsection (b)(5), whose  
22                  lawful permanent resident status on a conditional  
23                  basis is terminated under section 216A or subpara-  
24                  graph (O) of subsection (b)(5), shall continue to be  
25                  considered a child of the principal alien for the pur-

1       pose of a subsequent immigrant petition by the prin-  
2       ciple alien under subsection (b)(5) if the alien who  
3       was a child of the principle alien remains unmarried  
4       and the subsequent petition is filed by the principal  
5       alien not later than 1 year after the termination of  
6       conditional lawful permanent resident status. No  
7       alien shall be considered a child under this para-  
8       graph with respect to more than 1 petition filed  
9       after the alien reaches 21 years of age.”.

10       (g) ENHANCED PAY SCALE FOR CERTAIN FEDERAL  
11       EMPLOYEES ADMINISTERING THE EMPLOYMENT CRE-  
12       ATION PROGRAM.—The Secretary of Homeland Security  
13       may establish, fix the compensation of, and appoint indi-  
14       viduals to designated critical, technical, and professional  
15       positions needed to administer sections 203(b)(5) and  
16       216A of the Immigration and Nationality Act (8 U.S.C.  
17       1153(b)(5) and 1186b).

18       (h) CONCURRENT FILING OF EB–5 PETITIONS AND  
19       APPLICATIONS FOR ADJUSTMENT OF STATUS.—Section  
20       245 of the Immigration and Nationality Act (8 U.S.C.  
21       1255) is amended—

22               (1) in subsection (k), in the matter preceding  
23       paragraph (1), by striking “or (3)” and inserting  
24       “(3), or (5)”; and

25               (2) by adding at the end the following:



1       “(n) If the approval of a petition for classification  
2 under section 203(b)(5) would make a visa immediately  
3 available to the alien beneficiary, the alien beneficiary’s  
4 application for adjustment of status under this section  
5 shall be considered to be properly filed whether the appli-  
6 cation is submitted concurrently with, or subsequent to,  
7 the visa petition.”.

8       (i) CONFORMING CHANGES.—

9           (1) Section 201(d)(1) is amended by—

10               (A) striking the period at the end of sub-  
11 paragraph (B) and inserting “, plus”; and

12               (B) inserting the following new subpara-  
13 graph (C) at the end—

14                   “(C) the number of unused visas computed  
15 under section 203(b)(5)(C)(i)(II) (which num-  
16 ber shall be allocated pursuant to such sec-  
17 tion).”.

18           (2) Section 203(b)(1) of the Immigration and  
19 Nationality Act is amended by inserting “, subject to  
20 section 203(b)(5)(C)(i),” after “classes specified in  
21 paragraphs (4) and (5)”.

22           (3) Section 203(b)(5)(A) of the Immigration  
23 and Nationality Act is amended by striking “Visas  
24 shall be made available” and inserting “Subject to

1 section 203(b)(5)(C)(i), visas shall be made avail-  
2 able”.

3 (j) EFFECTIVE DATES.—

4 (1) IN GENERAL.—Except as provided under  
5 paragraph (2), the amendments made by this section  
6 shall be effective upon the date of the enactment of  
7 this Act.

8 (2) EXCEPTIONS.—

9 (A) IN GENERAL.—The amendments made  
10 by subparagraphs (A) and (B) of subsection  
11 (c)(1) and subsection (e)(1) shall not apply to  
12 a beneficiary of a petition that—

13 (i) was filed by an alien investor  
14 under section 203(b)(5) of the Immigra-  
15 tion and Nationality Act (8 U.S.C.  
16 1153(b)(5)) prior to June 1, 2015;

17 (ii) was filed by an alien investor  
18 under such section 203(b)(5) during the  
19 period beginning on June 1, 2015, and  
20 ending on the date of the enactment of this  
21 Act if such beneficiary is investing in the  
22 same commercial enterprise concerning the  
23 same economic activity as contained in an  
24 exemplar filed prior to June 1, 2015, or  
25 approved by the Secretary of Homeland

1 Security at any time prior to the date of  
2 enactment of this Act, unless the Secretary  
3 determines that such approval or filing was  
4 based on fraud, misrepresentation in the  
5 record of proceeding, or is legally deficient;  
6 or

7 (iii) is filed under section 216A of  
8 such Act (8 U.S.C. 1186b) if the under-  
9 lying petition filed under section 203(b)(5)  
10 of such Act was filed prior to June 1,  
11 2015, or approved before the date of the  
12 enactment of this Act.

13 (B) RESERVED VISAS.—Items (aa) and  
14 (bb) of section 203(b)(5)(C)(i)(I) of the Immi-  
15 gration and Nationality Act (8 U.S.C.  
16 1153(b)(5)(C)(i)(I)), as added by this section,  
17 shall take effect beginning on October 1, 2016.

18 (3) REDESIGNATION.—

19 (A) PETITION AMENDMENT.—Petitioners  
20 described in paragraph (2)(A) may apply to  
21 amend their petition to redesignate the targeted  
22 employment area upon which such petition was  
23 based to conform to the targeted employment  
24 area criteria described in section 203(b)(5)(Q)  
25 of the Immigration and Nationality Act (8

1 U.S.C. 1153(b)(5)(Q)), as amended by sub-  
 2 section (e), if such application for amendment  
 3 is filed with the Secretary prior to October 1,  
 4 2017.

5 (B) RETENTION OF PRIORITY DATE.—If a  
 6 petitioner applies to amend a petition in accord-  
 7 ance with subparagraph (A)—

8 (i) the immigrant visa priority date  
 9 related to the original petition shall be re-  
 10 tained;

11 (ii) changes made in the amended pe-  
 12 tition to redesignate such area shall not be  
 13 deemed a material change; and

14 (iii) the minimum investment amount  
 15 such petitioner is required to make shall  
 16 not be affected by any such redesignation.

17 **SEC. 5. CONDITIONAL PERMANENT RESIDENT STATUS FOR**  
 18 **ALIEN INVESTORS, SPOUSES, AND CHILDREN.**

19 (a) IN GENERAL.—Section 216A of the Immigration  
 20 and Nationality Act (8 U.S.C. 1186b) is amended—

21 (1) by striking “Attorney General” each place  
 22 such term appears (except in subsection (d)(2)(C))  
 23 and inserting “Secretary of Homeland Security”;

24 (2) by striking “entrepreneur” each place such  
 25 term appears and inserting “investor”;

1           (3) in subsection (a), by amending paragraph  
2       (1) to read as follows:

3           “(1) CONDITIONAL BASIS FOR STATUS.—

4               “(A) IN GENERAL.—Except as provided in  
5       subparagraph (B), an alien investor, alien  
6       spouse, and alien child shall be considered, at  
7       the time of obtaining status of an alien lawfully  
8       admitted for permanent residence, to have ob-  
9       tained such status on a conditional basis sub-  
10      ject to the provisions of this section.

11           “(B) EXCEPTION.—An alien investor (and  
12      his or her alien spouse or alien child) whose pe-  
13      tition under subsection (f) is approved before  
14      the alien investor is lawfully admitted for per-  
15      manent residence shall be granted the status of  
16      an alien lawfully admitted for permanent resi-  
17      dence without conditions.”;

18      (4) in subsection (b)—

19           (A) in the heading, by striking “ENTRE-  
20      PRENEURSHIP” and inserting “INVESTMENT”;  
21      and

22           (B) by amending paragraph (1)(B) to read  
23      as follows:

24           “(B) the alien did not invest the requisite  
25      capital; or”;

1 (5) in subsection (c)—

2 (A) in the heading, by striking “OF TIME-  
3 LY PETITION AND INTERVIEW”;

4 (B) in paragraph (1)—

5 (i) in the matter preceding subpara-  
6 graph (A), by striking “In order” and in-  
7 serting “Except as provided in paragraph  
8 (3)(D), in order”;

9 (ii) in subparagraph (A)—

10 (I) by striking “must” and in-  
11 serting “shall”; and

12 (II) by striking “, and” and in-  
13 serting a semicolon;

14 (iii) in subparagraph (B)—

15 (I) by striking “must” and in-  
16 serting “shall”;

17 (II) by striking “Service” and in-  
18 serting “Department of Homeland Se-  
19 curity”; and

20 (III) by striking the period at the  
21 end and inserting “; and”; and

22 (iv) by adding at the end the fol-  
23 lowing:

24 “(C) the Secretary shall have performed a  
25 site visit to the new commercial enterprise and

1 job-creating entity in which the alien investor  
2 invested capital under subparagraph (A) of sec-  
3 tion 203(b)(5) pursuant to subparagraph (I)(iii)  
4 of such section.”; and

5 (C) in paragraph (3)—

6 (i) in subparagraph (A), in the undes-  
7 ignated matter following clause (ii), by  
8 striking “the” before “such filing”; and

9 (ii) by amending subparagraph (B) to  
10 read as follows:

11 “(B) REMOVAL OR EXTENSION OF CONDI-  
12 TIONAL BASIS.—

13 “(i) IN GENERAL.—Except as pro-  
14 vided in clause (ii), if the Secretary deter-  
15 mines that the facts and information con-  
16 tained in a petition submitted under para-  
17 graph (1)(A) are true, including dem-  
18 onstrating that the alien complied with  
19 subsection (d)(1)(B)(i), the Secretary  
20 shall—

21 “(I) notify the alien involved of  
22 such determination; and

23 “(II) remove the conditional  
24 basis of the alien’s status effective as  
25 of the second anniversary of the

1 alien's lawful admission for permanent  
2 residence.

3 “(ii) EXCEPTION.—If the petition  
4 demonstrates that the facts and informa-  
5 tion are true and that the alien is in com-  
6 pliance with subsection (d)(1)(B)(ii)—

7 “(I) the Secretary, in the Sec-  
8 retary's discretion, may provide one 1-  
9 year extension of the alien's condi-  
10 tional status; and

11 “(II)(aa) if the alien files a peti-  
12 tion not later than 30 days after the  
13 third anniversary of the alien's lawful  
14 admission for permanent residence  
15 demonstrating that the alien complied  
16 with subsection (d)(1)(B)(i), the Sec-  
17 retary shall remove the conditional  
18 basis of the alien's status effective as  
19 of such third anniversary; or

20 “(bb) if the alien does not file the  
21 petition described in item (aa), the  
22 conditional status shall terminate at  
23 the end of such additional year.”;

24 (6) in subsection (d)—

25 (A) in paragraph (1)—



1 (i) by amending subparagraph (A) to  
2 read as follows:

3 “(A) invested the requisite capital;”;

4 (ii) by redesignating subparagraph  
5 (B) as subparagraph (C); and

6 (iii) by inserting after subparagraph  
7 (A) the following:

8 “(B)(i) created the employment required  
9 under section 203(b)(5)(A)(ii); or

10 “(ii) is actively in the process of creating  
11 the employment required under section  
12 203(b)(5)(A)(ii) and will create such employ-  
13 ment before the third anniversary of the alien’s  
14 lawful admission for permanent residence;  
15 and”;

16 (B) in paragraph (2), by amending sub-  
17 paragraph (A) to read as follows:

18 “(A) 90-DAY PERIOD BEFORE SECOND AN-  
19 NIVERSARY.—

20 “(i) IN GENERAL.—Except as pro-  
21 vided in clause (ii) and subparagraph (B),  
22 a petition under subsection (c)(1)(A) shall  
23 be filed during the 90-day period before  
24 the second anniversary of the alien inves-

1 tor's lawful admission for permanent resi-  
2 dence.

3 “(ii) EXCEPTION.—Aliens described in  
4 subclauses (I)(bb), (I)(cc), and (II) of sec-  
5 tion 203(b)(5)(O)(ii) shall file a petition  
6 under subsection (c)(1)(A) during the 90-  
7 day period before the second anniversary  
8 of the subsequent investment.”; and  
9 (C) in paragraph (3)—

10 (i) by striking “The interview” and  
11 inserting the following:

12 “(A) IN GENERAL.—The interview”;

13 (ii) by striking “Service” and insert-  
14 ing “Department of Homeland Security”;  
15 and

16 (iii) by striking the last sentence and  
17 inserting the following:

18 “(B) WAIVER.—The Secretary of Home-  
19 land Security, in the Secretary's discretion, may  
20 waive the deadline for such an interview or the  
21 requirement for such an interview according to  
22 criteria developed by United States Citizenship  
23 and Immigration Services in consultation with  
24 its Fraud Detection and National Security Di-  
25 rectorate, and United States Immigration and

1 Customs Enforcement, except that such criteria  
2 shall not include reduction of case processing  
3 times or the allocation of adjudicatory re-  
4 sources. A waiver may not be granted under  
5 this subparagraph if the alien to be inter-  
6 viewed—

7 “(i) invested in a regional center, new  
8 commercial enterprise, or job-creating enti-  
9 ty that was sanctioned under section  
10 203(b)(5); or

11 “(ii) is in a class of aliens determined  
12 by the Secretary to be threats to public  
13 safety or national security.”;

14 (7) by redesignating subsection (f) as sub-  
15 section (g);

16 (8) by inserting after subsection (e) the fol-  
17 lowing:

18 “(f) PETITION FROM QUALIFIED ALIEN INVES-  
19 TOR.—An alien investor who invested the requisite capital  
20 and created the employment required under section  
21 203(b)(5)(A)(ii) at least 24 months before admission, and  
22 is otherwise conforming to the requirements under section  
23 203(b)(5), may file a petition, before admission for perma-  
24 nent residence, to be considered, at the time of obtaining

1 status of an alien lawfully admitted for permanent resi-  
2 dence, to obtain such status without conditions.”; and

3 (9) in subsection (g)(3), as redesignated, by  
4 striking “a limited partnership” and inserting “any  
5 entity formed for the purpose of doing for-profit  
6 business”.

7 (b) EFFECTIVE DATES.—

8 (1) IN GENERAL.—Except as provided under  
9 paragraph (2), the amendments made by subsection  
10 (a) shall take effect on the date of the enactment of  
11 this Act.

12 (2) EXCEPTIONS.—

13 (A) SITE VISITS.—The amendment made  
14 by subsection (a)(5)(B)(iv) shall take effect not  
15 later than 2 years after the date of the enact-  
16 ment of this Act.

17 (B) PETITION BENEFICIARIES.—The  
18 amendments made by subsection (a) shall not  
19 apply to the beneficiary of a petition that is  
20 filed under section 216A of the Immigration  
21 and Nationality Act (8 U.S.C. 1186b) if the un-  
22 derlying petition filed pursuant to section  
23 204(a)(1)(H) of such Act (8 U.S.C.  
24 1154(a)(1)(H)) was approved before the date of  
25 the enactment of this Act.

1 **SEC. 6. PROCEDURE FOR GRANTING IMMIGRANT STATUS.**

2 (a) FILING ORDER AND ELIGIBILITY.—Section  
3 204(a)(1)(H) of the Immigration and Nationality Act (8  
4 U.S.C. 1154(a)(1)(H)) is amended to read as follows:

5 “(H)(i) An alien desiring to be classified  
6 under section 203(b)(5) may file a petition with  
7 the Secretary of Homeland Security, but only if  
8 the alien is not under 18 years of age at the  
9 time of filing. An alien who seeks to pool the  
10 alien’s investment with one or more additional  
11 aliens seeking classification under section  
12 203(b)(5) shall file for classification pursuant  
13 to section 203(b)(5)(H). An alien petitioning  
14 for classification pursuant to section  
15 203(b)(5)(H) may only file a petition with the  
16 Secretary after the regional center has filed an  
17 application for approval of an investment under  
18 section 203(b)(5)(I).

19 “(ii) A petitioner shall establish eligibility  
20 at the time the alien files for classification  
21 under section 203(b)(5) and, if not eligible at  
22 the time of filing, shall be denied such classi-  
23 fication even if the petitioner later becomes eli-  
24 gible under materially different facts or cir-  
25 cumstances. Aliens asserting eligibility under a  
26 materially different set of facts that did not

1           exist when the petition was filed shall file a new  
2           petition. A petitioner shall continue to be eligi-  
3           ble for classification at the time such petition is  
4           adjudicated.”.

5       (b) EFFECTIVE DATES.—

6           (1) IN GENERAL.—The amendments made by  
7       subsection (a) shall take effect on the date of the en-  
8       actment of this Act.

9           (2) APPLICABILITY TO PETITIONS.—

10          (A) FILING.—Clause (i) of section  
11       204(a)(1)(H) of the Immigration and Nation-  
12       ality Act (8 U.S.C. 1154(a)(1)(H)), as added  
13       by subsection (a), shall apply to any petition for  
14       classification pursuant to section 203(b)(5)(H)  
15       of such Act (8 U.S.C. 1153(b)(5)(H)) that is  
16       filed with the Secretary of Homeland Security  
17       on or after the date of the enactment of this  
18       Act.

19          (B) ELIGIBILITY.—Clause (ii) of section  
20       204(a)(1)(H) of such Act, as added by sub-  
21       section (a), shall apply to any petition for clas-  
22       sification pursuant to section 203(b)(5)(H) of  
23       the Immigration and Nationality Act (8 U.S.C.  
24       1153(b)(5)(E)) filed with the Secretary of  
25       Homeland Security at any time.

1 **SEC. 7. TIMELY PROCESSING.**

2 (a) **FEE STUDY.**—Not later than 180 days after the  
3 date of the enactment of this Act, the Director of United  
4 States Citizenship and Immigration Services shall com-  
5 plete a study of fees charged in the administration of the  
6 program described in sections 203(b)(5) and 216A of the  
7 Immigration and Nationality Act (8 U.S.C. 1153(b)(5)  
8 and 1186b).

9 (b) **ADJUSTMENT OF FEES TO ACHIEVE EFFICIENT**  
10 **PROCESSING.**—Notwithstanding section 286(m) of the  
11 Immigration and Nationality Act (8 U.S.C. 1356(m)), and  
12 except as provided under subsection (c), the Director shall  
13 set fees for services provided pursuant to section  
14 203(b)(5) and 216A of such Act (8 U.S.C. 1153(b)(5) and  
15 1186b), as amended by this Act, and for adjudicating peti-  
16 tions filed pursuant to section 204(a)(1)(H) of such Act  
17 (8 U.S.C. 1154(a)(1)(H)), as amended by this Act, at a  
18 level sufficient to ensure the full recovery only of the costs  
19 of providing such services, including the cost of attaining  
20 the goal of completing adjudications, on average, not later  
21 than—

22 (1) 120 days after receiving a proposal for the  
23 establishment of a regional center described in sec-  
24 tion 203(b)(5)(H);

1           (2) 120 days after receiving an application for  
2           approval of investment in a commercial enterprise  
3           described in section 203(b)(5)(I);

4           (3) 150 days after receiving a petition from an  
5           alien desiring to be classified under section  
6           203(b)(5)(H); and

7           (4) 180 days after receiving a petition from an  
8           alien for removal of conditions described in section  
9           216A(c).

10          (c) ADDITIONAL FEES.—Additional fees in excess of  
11          the fee levels described in subsection (b) may be charged  
12          only to contribute—

13               (1) in an amount that is equal to the amount  
14               paid by all other classes of fee-paying applicants for  
15               immigration-related benefits, to the coverage or re-  
16               duction of the costs of processing or adjudicating  
17               classes of immigration benefit applications that Con-  
18               gress, or the Secretary in the case of asylum applica-  
19               tions, has authorized to be processed or adjudicated  
20               at no cost or at a reduced cost to the applicant; and

21               (2) in an amount that is not greater than 1  
22               percent of the fee for filing a petition pursuant to  
23               section 204(a)(1)(H) of the Immigration and Na-  
24               tionality Act (8 U.S.C. 1154(a)(1)(H)), to make im-  
25               provements to the information technology systems



1 used by the Secretary to process, adjudicate, and ar-  
2 chive applications and petitions under such section,  
3 including the conversion to electronic format of doc-  
4 uments filed by petitioners and applicants for bene-  
5 fits under such section.

6 (d) PREMIUM PROCESSING OF EB-5 PETITIONS AND  
7 APPLICATIONS.—

8 (1) MODIFICATION OF EXISTING PREMIUM  
9 PROCESSING PROVISION.—Section 286(u) of the Im-  
10 migration and Nationality Act (8 U.S.C. 1356(u)) is  
11 amended to read as follows:

12 “(u) PREMIUM FEE FOR EMPLOYMENT-BASED PETI-  
13 TIONS AND APPLICATIONS.—

14 “(1) IN GENERAL.—The Secretary of Homeland  
15 Security is authorized to establish and collect a pre-  
16 mium fee for employment-based petitions and appli-  
17 cations. The fee under this paragraph shall be used  
18 to provide certain premium-processing services to  
19 business customers and to make infrastructure im-  
20 provements in the adjudications and customer-serv-  
21 ice processes. For approval of the benefit applied  
22 for, the petitioner or applicant shall meet the legal  
23 criteria for such benefit. Except as provided under  
24 paragraph (2), the fee under this paragraph shall be  
25 set at \$1,000, shall be paid in addition to any nor-

mal petition or application fee that may be applicable, and shall be deposited as offsetting collections in the Immigration Examinations Fee Account. The Secretary may adjust the fee under this paragraph in proportion to changes in the Consumer Price Index.

“(2) ALIEN INVESTOR PETITIONS AND APPLICATIONS.—The Secretary shall establish and collect a premium fee for expeditious processing of applications for regional center designation or regional center amendment under section 203(b)(5)(H), petitions under section 203(b)(5), petitions for removal of conditions on lawful permanent residence under section 216A(c), and applications under section 203(b)(5)(I) related to investment in a new commercial enterprise (as defined in section 203(b)(5)(Q)). A petitioner or applicant shall be permitted an opportunity to provide additional evidence identified by the Secretary in any such petition or application prior to a final determination. The premium fee for each such application or petition shall be set at an amount sufficient to adjudicate such application or petition within 1/2 of the relevant period set forth in section 6(b) of the American Job Creation and Investment Promotion Reform Act of 2016, and shall

1 otherwise only be used to recover the costs of such  
2 processing, including the hiring of additional adju-  
3 dicatory staff, shall be paid in addition to any nor-  
4 mal petition or application fee that may be applica-  
5 ble, and shall be deposited as offsetting collections in  
6 the Immigration Examinations Fee Account.”.

7 (2) ESTABLISHMENT OF EB-5 PREMIUM PROC-  
8 ESSING.—Not later than 180 days after the date of  
9 the enactment of this Act, the Secretary of Home-  
10 land Security shall establish the premium processing  
11 of immigrant investor petitions and applications, as  
12 described in section 286(u) of the Immigration and  
13 Nationality Act (8 U.S.C. 1356(u)), as amended by  
14 paragraph (1).

15 (e) DELAY IN ADJUDICATION.—Nothing in this Act  
16 may be construed to limit the authority of the Secretary  
17 of Homeland Security to suspend the adjudication of any  
18 application or petition under section 203(b)(5) or 216A  
19 of the Immigration and Nationality Act (8 U.S.C.  
20 1153(b)(5) and 1186b) or related petition under section  
21 204(a)(1)(H) of such Act (8 U.S.C. 1154(a)(1)(H)) pend-  
22 ing the completion of a national security or law enforce-  
23 ment investigation relating to such application or petition.

24 (f) EXEMPTION FROM PAPERWORK REDUCTION  
25 ACT.—For a period of one year after the date of the enact-

1 ment of this Act, the requirements of chapter 35 of title  
2 44, United States Code, shall not apply to any collection  
3 of information required under this Act, under any amend-  
4 ment made by this Act, or under any rule promulgated  
5 by the Secretary of Homeland Security to implement this  
6 Act or the amendments made by this Act, to the extent  
7 the Secretary determines that compliance with such re-  
8 quirements would impede the expeditious implementation  
9 of this Act or the amendments made by this Act.

10 (g) RULE OF CONSTRUCTION.—Nothing in this sec-  
11 tion may be construed to require any modification of fees  
12 before the completion of—

13 (1) the fee study described in subsection (a);  
14 and

15 (2) regulations promulgated by the Secretary of  
16 Homeland Security, in accordance with subchapter  
17 II of chapter 5 and chapter 7 of title 5, United  
18 States Code (commonly known as the “Administra-  
19 tive Procedure Act”), to carry out subsections (b)  
20 and (c).

21 **SEC. 8. TRANSPARENCY.**

22 (a) IN GENERAL.—Employees of the Department of  
23 Homeland Security, including the Secretary of Homeland  
24 Security, the Secretary’s counselors, the Assistant Sec-  
25 retary for the Private Sector, the Director of United

1 States Citizenship and Immigration Services, counselors  
2 to such Director, and the Chief of Immigrant Investor  
3 Programs at United States Citizenship and Immigration  
4 Services, shall act impartially and may not give pref-  
5 erential treatment to any entity, organization, or indi-  
6 vidual in connection with any aspect of the immigrant visa  
7 program described in section 203(b)(5) of the Immigra-  
8 tion and Nationality Act (8 U.S.C. 1153(b)(5)).

9 (b) IMPROPER ACTIVITIES.—Activities that con-  
10 stitute preferential treatment under subsection (a) shall  
11 include—

12 (1) working on, or in any way attempting to in-  
13 fluence, in a manner not available to or accorded to  
14 all other petitioners, applicants, and seekers of bene-  
15 fits under the immigrant visa program described in  
16 section 203(b)(5) of the Immigration and Nation-  
17 ality Act (8 U.S.C. 1153(b)(5)), as amended by this  
18 Act, the standard processing of an application, peti-  
19 tion, or benefit for—

20 (A) a regional center established under  
21 subparagraph (H) of such section;

22 (B) a new commercial enterprise (as de-  
23 fined in subparagraph (Q) of such section);

24 (C) a job-creating entity (as so defined); or

1 (D) any person or entity associated with  
2 such regional center, new commercial enter-  
3 prise, or job-creating entity; and

4 (2) meeting or communicating with persons as-  
5 sociated with the entities described in paragraph (1),  
6 at the request of such persons, in a manner not  
7 available to or accorded to all other petitioners, ap-  
8 plicants, and seekers of benefits under such immi-  
9 grant visa program.

10 (c) REPORTING OF COMMUNICATIONS.—

11 (1) WRITTEN COMMUNICATION.—Employees of  
12 the Department of Homeland Security, including the  
13 officials listed in subsection (a), shall include, in the  
14 record of proceeding for a case under section  
15 203(b)(5) of the Immigration and Nationality Act,  
16 actual or electronic copies of all case-specific written  
17 communication, including e-mails from government  
18 and private accounts, with non-Department persons  
19 or entities advocating for regional center applica-  
20 tions or individual petitions under such section that  
21 are pending on or after the date of the enactment  
22 of this Act (other than routine communications with  
23 other agencies of the Federal Government regarding  
24 the case, including communications involving back-  
25 ground checks and litigation defense).

1           (2) ORAL COMMUNICATION.—If substantive oral  
2       communication, including telephonic communication,  
3       virtual communication, and in-person meetings,  
4       takes place between officials of the Department of  
5       Homeland Security and non-Department persons or  
6       entities advocating for regional center applications  
7       or individual petitions under section 203(b)(5) of the  
8       Immigration and Nationality Act (8 U.S.C.  
9       1153(b)(5)) that are pending on or after the date of  
10      the enactment of this Act (other than routine com-  
11      munications with other agencies of the Federal Gov-  
12      ernment regarding the case, including communica-  
13      tions involving background checks and litigation de-  
14      fense)—

15                (A) the conversation shall be recorded; or

16                (B) detailed minutes of the session shall be  
17      taken and included in the record of proceeding.

18           (3) NOTIFICATION.—

19                (A) IN GENERAL.—If the Secretary, in the  
20      course of written or oral communication de-  
21      scribed in this subsection, receives evidence  
22      about a specific case from anyone other than an  
23      affected party or his or her representative (ex-  
24      cluding Federal Government or law enforcement  
25      sources), such information may not be made

1 part of the record of proceeding and may not  
2 be considered in adjudicative proceedings un-  
3 less—

4 (i) the affected party has been given  
5 notice of such evidence; and

6 (ii) if such evidence is derogatory, the  
7 affected party has been given an oppor-  
8 tunity to respond to the evidence.

9 (B) INFORMATION FROM LAW ENFORCE-  
10 MENT, INTELLIGENCE AGENCIES, OR CON-  
11 FIDENTIAL SOURCES.—

12 (i) LAW ENFORCEMENT OR INTEL-  
13 LIGENCE AGENCIES.—Evidence received  
14 from law enforcement or intelligence agen-  
15 cies may not be made part of the record of  
16 proceeding without the consent of the rel-  
17 evant agency or law enforcement entity.

18 (ii) WHISTLEBLOWERS, CONFIDEN-  
19 TIAL SOURCES, OR INTELLIGENCE AGEN-  
20 CIES.—Evidence received from whistle-  
21 blowers, other confidential sources, or the  
22 intelligence community that is included in  
23 the record of proceeding and considered in  
24 adjudicative proceedings shall be handled  
25 in a manner that does not reveal the iden-



1                   tity of the whistleblower or confidential  
2                   source, or reveal classified information.

3       (d) CONSIDERATION OF EVIDENCE.—

4               (1) IN GENERAL.—No case-specific communica-  
5       tion with persons or entities that are not part of the  
6       Department of Homeland Security may be consid-  
7       ered in the adjudication of an application or petition  
8       under section 203(b)(5) of the Immigration and Na-  
9       tionality Act (8 U.S.C. 1153(b)(5)) unless the com-  
10      munication is included in the record of proceeding of  
11      the case.

12            (2) WAIVER.—The Secretary of Homeland Se-  
13      curity may waive the requirement under paragraph  
14      (1) only in the interests of national security or for  
15      investigative or law enforcement purposes.

16      (e) CHANNELS OF COMMUNICATION.—

17            (1) E-MAIL ADDRESS OR EQUIVALENT.—The  
18      Director of United States Citizenship and Immigra-  
19      tion Services shall maintain an e-mail account (or  
20      equivalent means of communication) for persons or  
21      entities—

22                (A) with inquiries regarding specific peti-  
23                tions or applications under the immigrant visa  
24                program described in section 203(b)(5) of the

1 Immigration and Nationality Act (8 U.S.C.  
2 1153(b)(5)); or

3 (B) seeking non-case-specific information  
4 about the immigrant visa program described in  
5 such section 203(b)(5).

6 (2) COMMUNICATION ONLY THROUGH APPRO-  
7 PRIATE CHANNELS OR OFFICES.—

8 (A) ANNOUNCEMENT OF APPROPRIATE  
9 CHANNELS OF COMMUNICATION.—Not later  
10 than 40 days after the date of the enactment of  
11 this Act, the Director of United States Citizen-  
12 ship and Immigration Services shall announce  
13 that the only channels or offices by which in-  
14 dustry stakeholders, petitioners, applicants, and  
15 seekers of benefits under the immigrant visa  
16 program described in section 203(b)(5) of the  
17 Immigration and Nationality Act (8 U.S.C.  
18 1153(b)(5)) may communicate with the Depart-  
19 ment of Homeland Security regarding specific  
20 cases under such section (except for commu-  
21 nication made by applicants and petitioners  
22 pursuant to regular adjudicatory procedures),  
23 or non-case-specific information about the visa  
24 program applicable to certain cases under such  
25 section, are through—

1 (i) the e-mail address or equivalent  
2 channel described in paragraph (1);

3 (ii) the United States Citizenship and  
4 Immigration Services National Customer  
5 Service Center, or any successor to that  
6 Center; or

7 (iii) the United States Citizenship and  
8 Immigration Services Office of Public En-  
9 gagement, Immigrant Investor Program  
10 Office, Stakeholder Engagement Branch,  
11 or any successors to those Offices or  
12 Branch.

13 (B) DIRECTION OF INCOMING COMMUNICA-  
14 TIONS.—

15 (i) IN GENERAL.—Employees of the  
16 Department of Homeland Security shall di-  
17 rect communications described in subpara-  
18 graph (A) to the channels of communica-  
19 tion or offices listed in subparagraph (A).

20 (ii) RULE OF CONSTRUCTION.—Noth-  
21 ing in this subparagraph may be construed  
22 to prevent—

23 (I) any person from commu-  
24 nicating with the Ombudsman of  
25 United States Citizenship and Immi-

1           gration Services regarding the immi-  
2           grant investor program under section  
3           203(b)(5) of the Immigration and Na-  
4           tionality Act (8 U.S.C. 1153(b)(5));  
5           or

6                   (II) the Ombudsman from resolv-  
7           ing problems regarding such immi-  
8           grant investor program pursuant to  
9           the authority granted under section  
10          452 of the Homeland Security Act of  
11          2002 (6 U.S.C. 272).

12          (C) LOG.—

13               (i) IN GENERAL.—The Director of  
14          United States Citizenship and Immigration  
15          Services shall maintain a written or elec-  
16          tronic log of—

17                   (I) all communications described  
18          in subparagraph (A) and communica-  
19          tions from members of Congress,  
20          which shall reference the date, time,  
21          and subject of the communication,  
22          and the identity of the Department of-  
23          ficial, if any, to whom the inquiry was  
24          forwarded;

1 (II) with respect to written com-  
2 munications described in subsection  
3 (c)(1), the date the communication  
4 was received, the identities of the  
5 sender and addressee, and the subject  
6 of the communication; and

7 (III) with respect to oral commu-  
8 nications described in subsection  
9 (c)(2), the date on which the commu-  
10 nication occurred, the participants in  
11 the conversation or meeting, and the  
12 subject of the communication.

13 (ii) TRANSPARENCY.—The log of com-  
14 munications described in clause (i) shall be  
15 made publicly available in accordance with  
16 section 552 of title 5, United States Code  
17 (commonly known as the “Freedom of In-  
18 formation Act”).

19 (3) PUBLICATION OF INFORMATION.—If, as a  
20 result of a communication with an official of the De-  
21 partment of Homeland Security, a person or entity  
22 inquiring about a specific case or generally about the  
23 immigrant visa program described in section  
24 203(b)(5) of the Immigration and Nationality Act (8  
25 U.S.C. 1153(b)(5)) received generally applicable and

1 non-case specific information about program require-  
2 ments or administration that has not been made  
3 publicly available by the Department, the Director of  
4 United States Citizenship and Immigration Services,  
5 not later than 30 days after the communication of  
6 such information to such person or entity, shall pub-  
7 lish such information on the United States Citizen-  
8 ship and Immigration Services Web site as an up-  
9 date to the relevant Frequently Asked Questions  
10 page or by some other comparable mechanism.

11 (f) PENALTY.—

12 (1) IN GENERAL.—Any person who inten-  
13 tionally violates the prohibition on preferential treat-  
14 ment under this section or intentionally violates the  
15 reporting requirements under subsection (c) shall be  
16 disciplined in accordance with paragraph (2).

17 (2) SANCTIONS.—Not later than 90 days after  
18 the date of the enactment of this Act, the Secretary  
19 of Homeland Security shall establish a graduated set  
20 of sanctions based on the severity of the violation re-  
21 ferred to in paragraph (1), which may include, in  
22 addition to any criminal or civil penalties that may  
23 be imposed, written reprimand, suspension, demo-  
24 tion, or removal.

1 (g) RULE OF CONSTRUCTION.—Nothing in this sec-  
2 tion may be construed to modify any law, regulation, or  
3 policy regarding the handling or disclosure of classified in-  
4 formation.

5 (h) NO CREATION OF PRIVATE RIGHT OF ACTION.—  
6 Nothing in this section may be construed to create or au-  
7 thorize a private right of action to challenge a decision  
8 of an employee of the Department of Homeland Security.

9 **SEC. 9. REPORTS.**

10 (a) GAO REPORT.—Not later than December 31,  
11 2019, the Comptroller General of the United States shall  
12 submit a report to the Committee on the Judiciary of the  
13 Senate and the Committee on the Judiciary of the House  
14 of Representatives that describes—

15 (1) the economic benefits of the regional center  
16 program established under section 203(b)(5) of the  
17 Immigration and Nationality Act (8 U.S.C.  
18 1153(b)(5)), including the steps taken by United  
19 States Citizenship and Immigration Services to  
20 verify job creation;

21 (2) the extent to which United States Citizen-  
22 ship and Immigration Services ensures compliance  
23 by regional center participants with their obligations  
24 under the immigrant investor program;

1           (3) the extent to which United States Citizen-  
2       ship and Immigration Services has maintained  
3       records of regional centers and associated commer-  
4       cial enterprises, including annual statements and  
5       certifications;

6           (4) the steps taken by United States Citizen-  
7       ship and Immigration Services to verify the source  
8       of funds, as required under section 203(b)(5)(D) of  
9       the Immigration and Nationality Act, as added by  
10      section 2 of this Act;

11          (5) the extent to which United States Citizen-  
12      ship and Immigration Services collaborates with  
13      other Federal and law enforcement agencies, par-  
14      ticularly to detect illegal activity and threats to na-  
15      tional security related to the regional center pro-  
16      gram;

17          (6) the extent to which United States Citizen-  
18      ship and Immigration Services has prevented fraud  
19      and abuse in regional center activities, including the  
20      designation of targeted employment areas in areas  
21      that otherwise have high employment;

22          (7) the extent to which United States Citizen-  
23      ship and Immigration Services has used its authority  
24      to sanction, suspend, bar, or terminate regional cen-  
25      ters or individuals affiliated with regional centers;



1           (8) the steps that have been taken to oversee  
2       direct and third-party promoters under section  
3       203(b)(5)(N) of the Immigration and Nationality  
4       Act, as added by section 3 of this Act;

5           (9) the extent to which employees of the De-  
6       partment of Homeland Security have complied with  
7       the ethical standards and transparency requirements  
8       under section 8 of this Act; and

9           (10) an accounting of the expenditure of  
10      amounts from the EB–5 Integrity Fund established  
11      under section 203(b)(5)(M) of the Immigration and  
12      Nationality Act, as added by section 3 of this Act.

13      (b) INSPECTOR GENERAL REPORT.—Not later than  
14      December 31, 2019, the Inspector General of the Intel-  
15      ligence Community, in coordination with the Inspector  
16      General of the Department of Homeland Security and  
17      after consultation with relevant Federal agencies, includ-  
18      ing United States Immigration and Customs Enforce-  
19      ment, shall submit a report to the Committee on the Judi-  
20      ciary of the Senate and the Committee on the Judiciary  
21      of the House of Representatives concerning the immigrant  
22      visa program set forth in section 203(b)(5) of the Immi-  
23      gration and Nationality Act (8 U.S.C. 1153(b)(5)) that  
24      describes—

1           (1) the vulnerabilities within the program that  
2           may undermine the national security of the United  
3           States;

4           (2) the actual or potential use of the program  
5           to facilitate export of sensitive technology;

6           (3) the actual or potential use of the program  
7           to facilitate economic espionage;

8           (4) the actual or potential use of the program  
9           by foreign government agents; and

10          (5) the actual or potential use of the program  
11          to facilitate terrorist activity, including funding ter-  
12          rorist activity or laundering terrorist funds.

13          (c) REVIEW OF JOB CREATION METHODOLOGIES.—  
14          Not later than 1 year after the date of the enactment of  
15          this Act, the Secretary of Homeland Security, in consulta-  
16          tion with the Bureau of Economic Analysis of the Depart-  
17          ment of Commerce, or another component within the De-  
18          partment of Commerce, as determined by the Secretary  
19          of Commerce, shall publish regulations to determine eco-  
20          nomically and statistically valid general economic meth-  
21          odologies that are in compliance with section  
22          203(b)(5)(A)(ii) of the Immigration and Nationality Act  
23          (8 U.S.C. 1153(b)(5)(A)(ii)).

24          (d) REPORT.—

1           (1) IN GENERAL.—Not later than 3 years after  
2       the date of the enactment of this Act, the Secretary  
3       of Homeland Security, in coordination with the Sec-  
4       retary of Commerce and after consultation with rel-  
5       evant Federal agencies, shall submit a report to the  
6       Committee on the Judiciary of the Senate and the  
7       Committee on the Judiciary of the House of Rep-  
8       resentatives that describes, with respect to the pro-  
9       gram under section 203(b)(5) of the Immigration  
10      and Nationality Act (8 U.S.C. 1153(b)(5))—

11           (A) the percentage of completed and pend-  
12      ing capital investment projects and the number  
13      of alien investors investing pursuant to such  
14      program in the States, metropolitan and  
15      micropolitan statistical areas, and counties in  
16      which such projects occurred in each fiscal year,  
17      within the scope of business plans filed pursu-  
18      ant to section 203(b)(5)(I) of the Immigration  
19      and Nationality Act (8 U.S.C. 1153(b)(5)(I)),  
20      as added by this Act, both approved and await-  
21      ing approval—

22           (i) in rural areas;

23           (ii) in rural areas where the median  
24      family income is 125 percent or more than  
25      the national average;

1 (iii) in priority urban investment  
2 areas;

3 (iv) for infrastructure projects;

4 (v) for manufacturing projects; and

5 (vi) in areas that are not described in  
6 any of the clauses (i) through (v);

7 (B) whether other Federal financial assist-  
8 ance and tax incentive programs, such as eco-  
9 nomic development programs administered by  
10 the Department of Agriculture, the Department  
11 of Housing and Urban Development, or the  
12 Community Development Financial Institutions  
13 Fund, are also used or available for use by  
14 projects described in subparagraph (A);

15 (C)(i) what data is available to assess com-  
16 muting patterns from high unemployment cen-  
17 sus tracts to project locations;

18 (ii) whether the consideration of such com-  
19 muting patterns may be an appropriate factor  
20 for targeted employment area designations; and

21 (iii) whether such data can be used to as-  
22 sess job creation in high unemployment census  
23 tracts;

24 (D) whether market demands to approve  
25 projects described in subparagraph (A) exceed

1 the number of visas allowed under section  
2 203(b)(5) of the Immigration and Nationality  
3 Act (8 U.S.C. 1153(b)(5));

4 (E) whether other metrics or Federal data  
5 sets are available that capture underserved or  
6 undercapitalized communities that may provide  
7 an appropriate factor for targeted employment  
8 area designations; and

9 (F) what data is available to assess the  
10 percentage of jobs created through the investor  
11 visa program that are held by persons who re-  
12 side in census tracts that have an unemploy-  
13 ment rate of at least 150 percent of the na-  
14 tional average.

15 (2) PUBLIC INPUT.—Not later than 60 days be-  
16 fore the submission of the report required under  
17 paragraph (1), the Secretary of Homeland Security  
18 shall provide the public with notice and an oppor-  
19 tunity to comment on the draft report.

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